

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

FERID ALLANI,

Plaintiff,

v.

APPLE, INC.

Defendant.

CIVIL ACTION NO. 6:24-cv-304-ADA

PLAINTIFF FERID ALLANI'S RESPONSIVE CLAIM CONSTRUCTION BRIEF

TABLE OF CONTENTS

I. INTRODUCTION 1

II. BACKGROUND OF THE INVENTION 1

III. LEGAL STANDARD..... 3

IV. DISPUTED CLAIM TERMS 4

A. The '877 Patent.....5

1. “web site” 5

2. “selection page” 8

3. “icon” 10

4. “direct access icon” 12

5. “said address being locally generated” 15

B. The '058 Patent.....16

1. “specifically designed to include” 16

V. CONCLUSION..... 20

TABLE OF AUTHORITIES

Cases

Abdulraheem v. USCIS, 1:23-CV-00894-DII-SH, 2023 U.S. Dist. LEXIS 181744 (W.D. Tex. Oct 10, 2023)	6
<i>Dealertrack, Inc. v. Huber</i> , 674 F.3d 1315 (Fed. Cir. 2012)	11
<i>Hand Held Prods., Inc. v. Amazon.com, Inc.</i> , No. 12-768, 2014 U.S. Dist. LEXIS 85345, (D. Del. June 24, 2014)	18
<i>Hill-Rom Servs., Inc. v. Stryker Corp.</i> , 755 F.3d 1367 (Fed. Cir. 2014)	4
<i>Illumina Inc. v. BGI Genomics Co.</i> , No. 20-cv-01465-WHO, 2020 U.S. Dist. LEXIS 222471, (N.D. Cal. Nov. 24, 2020).....	20
<i>In re Giannelli</i> , 739 F.3d 1375 (Fed. Cir. 2014).....	19
<i>Kara Tech Inc. v. Stamps.com Inc.</i> , 582 F.3d 1341 (Fed. Cir. 2009)	8, 11
<i>Kitty Hawk Aircargo, Inc. v. Chao</i> , 418 F.3d 453 (5th Cir. 2005)	6
<i>Liebel-Flarsheim Co. v. Medrad, Inc.</i> , 358 F.3d 898 (Fed. Cir. 2004).....	4
<i>Markman v. Westview Instruments, Inc.</i> , 517 U.S. 370 (1996)	3
<i>Markman v. Westview Instruments, Inc.</i> , 52 F.3d 967 (Fed. Cir. 1995)	4
<i>MBO Laboratories, Inc. v. Benton, Dickinson & Co.</i> , 474 F.3d 1323 (Fed. Cir. 2007).....	17
<i>MHL Custom, Inc. v. Waydoo USA, Inc.</i> , Civil Action No. 21-91-RGA, 2022 U.S. Dist. LEXIS 111958, (D. Del. June 24, 2022).....	19
<i>Mount Hamilton Partners, LLC v. Groupon, Inc.</i> , No. C 12-1700 SI, 2014 U.S. Dist. LEXIS 34556, (N.D. Cal. Mar. 14, 2014).....	6
<i>Nautilus, Inc. v. Biosig Instruments, Inc.</i> , 134 S.Ct. 2120, 2125, 2014 BL 151635, U.S.P.Q.2d 1688 (2014).....	18
<i>Panduit Corp. v. Dennison Mfg. Co.</i> , 810 F.2d. 1561 (Fed. Cir. 1987)	18
<i>Phillips v. AWH Corp.</i> , 415 F.3d 1303 (Fed. Cir. 2005)	3, 4

<i>Renishaw PLC v. Marposs Societa 'per Azioni</i> , 158 F.3d 1243 (Fed. Cir. 1998).....	5
<i>Teva Pharm. USA, Inc. v. Sandoz, Inc.</i> , 135 S. Ct. 831 (2015)	3, 4
<i>Ultra-Tex Surfaces, Inc. v. Hill Bros. Chem. Co.</i> , 204 F.3d 1360 (Fed.Cir. 2000)	18
<i>Vitronics Corp. v. Conceptoronic, Inc.</i> , 90 F.3d 1576 (Fed. Cir. 1996).....	3

TABLE OF ABBREVIATIONS

ABBREVIATION	TERM
Allani	Plaintiff Ferid Allani
Apple	Defendants Apple, Inc.
The '877 patent	U.S. Patent No. 8,271,877
The '058 patent	U.S. Patent No. 10,943,058
The patents-in-suit	The '877 patent and the '058 patent

I. INTRODUCTION

Allani asserts that Apple infringes claims 12, 15, 17-19 of the '877 patent and claims 24-27 of the '058 patent. Rather than compensate Allani for its unlawful use of Allani's intellectual property, Apple attempts to misuse the claim construction process to escape patent infringement liability and to invalidate the asserted claims of the '058 patent. Most, if not all, of Apple's proposed constructions introduce improper and unnecessary limitations into the disputed claim terms. Apple's self-serving constructions seek to limit the asserted claims to the preferred embodiment disclosed in the specification and, in many instances, violate basic claim construction principles. In addition, Apple fails to establish that the term "specifically designed to include" is indefinite by clear and convincing evidence. Allani's proposed constructions of the disputed claim terms, on the other hand, are consistent with the plain claim language and the intrinsic record. The motive behind Apple's proposed constructions is clear—when properly construed, the asserted claims are valid over the prior art, and Apple's accused products directly infringe the patents-in-suit. Accordingly, Allani respectfully requests that the Court enter an order adopting its proposed constructions and reject Apple's proposed constructions.

II. BACKGROUND OF THE INVENTION

The patents-in-suit are directed to a novel method and device for accessing information and services on the Web. They are the result of the pioneering work of inventor Mr. Ferid Allani. Mr. Allani's invention was a major technological breakthrough that allowed the user to immediately find the service and information he or she needed among the vast information available on the Web through a communications device using a simple icon or series of icons. The icons allow the user to navigate remote information sources more efficiently by minimizing search delays and improving usability. With Mr. Allani's invention, a user who needs information or a

service on the Web can access it with a simple click on their communication device without having to know or enter the address of the information or service that the user wishes to access.

At the time of the invention, traditional web navigation relied on search engines and portal sites, which required users to manually sift through multiple layers of search results and hyperlinks to reach their desired destination.¹ This approach was slow, tedious, and impractical for users unfamiliar with computer tools or the Internet.² Mr. Allani solved these problems by introducing a tree-structured menu of pre-stored selection pages that allow users to navigate their communication devices locally before generating and emitting only the final web address necessary to access the desired resource. One of the purposes of the invention was therefore to enable users unfamiliar with computer and Internet tools to have quick and easy access and for familiar users to gain speed and reduce the costs associated with use.³

The claims of the patents-in-suit are directed to an improved graphical user interface that enables a mobile device user to access internet information sources and services more quickly and easily. The elements of the claims include pre-stored selection pages that are organized in a hierarchical menu and displayed on the user's device.⁴ The selection pages include two types of icons: (1) selection icons, which lead to other locally stored selection pages and (2) direct access icons, which, when selected, transmit an address of a remote information source to the network.⁵ The addresses are either pre-stored in a local database or generated dynamically during the selection process.⁶

¹ Dkt. No. 1-1 (the '877 patent) at 1:10-35.

² *Id.* at 1:40-50.

³ *Id.*; *id.* at 1:65-2:1; *id.* at 2:27-36.

⁴ *Id.* at 2:8-12.

⁵ *Id.* at 2:17-21.

⁶ *Id.* at 2:22-26.

The claimed invention significantly reduces network congestion, search time, and user frustration by shifting preliminary navigation steps to the local device.⁷ Instead of querying the web repeatedly, a user can efficiently browse offline and only issue a single, well-defined request to access the final web resource.⁸ By enabling efficient pre-selection of information sources, minimizing network requests, and offering a structured, intuitive interface, Mr. Allani’s invention streamlines web navigation for users, particularly those unfamiliar with conventional search methods.⁹

III. LEGAL STANDARD

Ultimately, the proper construction of a patent is a question of law.¹⁰ “[T]he words of a claim are generally given their ordinary and customary meaning ... [which is] the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application.”¹¹ “[T]he ordinary meaning of a claim term is its meaning to the ordinary artisan after reading the entire patent.”¹² The patent “specification is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a disputed term.”¹³ While “the claims themselves provide substantial guidance as to the meaning of particular claim terms,” the context of the surrounding words of the claim also must be considered.¹⁴ Furthermore, “[o]ther claims of the patent in question, both

⁷ *Id.* at 2:27-36.

⁸ *Id.*

⁹ *Id.*

¹⁰ *See Teva Pharm. USA, Inc. v. Sandoz, Inc.*, 135 S. Ct. 831, 837 (2015) (citing *Markman v. Westview Instruments, Inc.*, 517 U.S. 370, 388-91 (1996)).

¹¹ *See Phillips v. AWH Corp.*, 415 F.3d 1303, 1312-13 (Fed. Cir. 2005) (internal citations and quotation marks omitted).

¹² *Id.* at 1321 (internal quotation marks omitted).

¹³ *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996).

¹⁴ *Phillips*, 415 F.3d at 1314.

asserted and unasserted, can also be valuable sources of enlightenment ... [b]ecause claim terms are normally used consistently throughout the patent.”¹⁵

“[T]he specification may reveal a special definition given to a claim term by the patentee that differs from the meaning it would otherwise possess. In such cases, the inventor’s lexicography governs.”¹⁶ “Even 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.”¹⁷ A court “should also consider the patent’s prosecution history, if it is in evidence.”¹⁸

“In some cases, ... the district court will need to look beyond the patent’s intrinsic evidence and to consult extrinsic evidence in order to understand, for example, the background science or the meaning of a term in the relevant art during the relevant time period.”¹⁹ “Extrinsic evidence consists of all evidence external to the patent and prosecution history, including expert and inventor testimony, dictionaries, and learned treatises.”²⁰

Finally, “[t]he construction that stays true to the claim language and most naturally aligns with the patent’s description of the invention will be, in the end, the correct construction.”²¹

IV. DISPUTED CLAIM TERMS

The parties dispute the construction of five terms in that appear in both the ’877 and ’058 patents: (1) “web site”; (2) “selection page”; (3) “icon”; (4) “direct access icon”; and (5) “said

¹⁵ *Id.* (internal citation omitted).

¹⁶ *Id.* at 1316.

¹⁷ *Hill-Rom Servs., Inc. v. Stryker Corp.*, 755 F.3d 1367, 1372 (Fed. Cir. 2014) (quoting *Liebel-Flarsheim Co. v. Medrad, Inc.*, 358 F.3d 898, 906 (Fed. Cir. 2004)) (alteration in original) (internal quotation marks omitted).

¹⁸ *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 980 (Fed. Cir. 1995), *aff’d*, 517 U.S. 370 (1996).

¹⁹ *Teva*, 135 S. Ct. at 841.

²⁰ *Markman*, 52 F.3d at 980.

²¹ *Renishaw PLC v. Marposs Societa 'per Azioni*, 158 F.3d 1243, 1250 (Fed. Cir. 1998).

address being locally generated.” Although Apple contends that the parties dispute the construction of three terms unique to the ’058 patent, Apple briefed only one such term: “specifically designed to include.” Accordingly, Allani assumes that the two other ’058 patent terms that Apple identified— “locally generated during said displaying and selection and for directly accessing said information- or service-providing Web site” and “directly accessing a search engine on the Web”—are not in dispute.

A. The ’877 Patent

1. “web site”

Term	Allani’s Proposed Construction	Apple’s Proposed Construction
“web site” ’877 Patent claims 12 and 19 ’058 Patent claim 27	A source of information or services accessible via a network using HTTP or another web protocol	No construction/plain and ordinary meaning which is “a collection of web pages accessible through a web address”

The Court should adopt Allani’s proposed construction of the term “web site” because it is consistent with the plain and ordinary meaning of the term and the intrinsic record. Apple contends that the plain and ordinary meaning of the term “web site” is “a collection of web pages accessible through a web address.”²² But Apple cites no support that its construction is the ordinary meaning of the term “web site.” Web pages are not necessary features of websites.²³ For example, Barron’s Dictionary of Computer and Internet Terms 1998 (6th Ed.) defines a “web site” as “a file or related

²² Dkt. No. 21 at 5.

²³ See, e.g., Ex. 1 at A-i (“A Web site is a collection of files accessible via the Internet whereby a person or an entity can document or distribute information.”) (all exhibits refer to exhibits to the Declaration of Lewis E. Hudnell, III); see also *Mount Hamilton Partners, LLC v. Groupon, Inc.*, No. C 12-1700 SI, 2014 U.S. Dist. LEXIS 34556, at *22 (N.D. Cal. Mar. 14, 2014) (construing website to be a “collection of files and related resources accessible through the World Wide Web and organized under a particular domain or set of related domains.”).

group of files available on the WORLD WIDE WEB.”²⁴ The Microsoft Press Computer Dictionary, Third Edition (1997) defines a “web site” as “[a] group of related HTML documents and associated files, scripts, and databases that is served up by an HTTP server on the World Wide Web.”²⁵ Even the Department of Homeland Security defines a “web site” as “a collection of digital resources accessible over the internet via a URL.”²⁶ All of these definitions are consistent with Allani’s proposed construction.

Apple’s contention that Allani seeks to improperly redefine “web site” by how information is accessed rather than by what kind of information is accessed is not only untrue, but it also is disingenuous. Apple’s construction does the same. Apple narrowly construes a “web site” to mean that the only information that can be accessed are web pages and the only way to access the web pages is through a web address. As shown by the evidence above, a “web site” should not be so narrowly defined.²⁷

Apple’s claim that Allani’s proposed construction is not supported by the specification is demonstrably false. Contrary to what Apple states, Figure 1, which Apple even cites,²⁸ expressly discloses the use of HTTP:

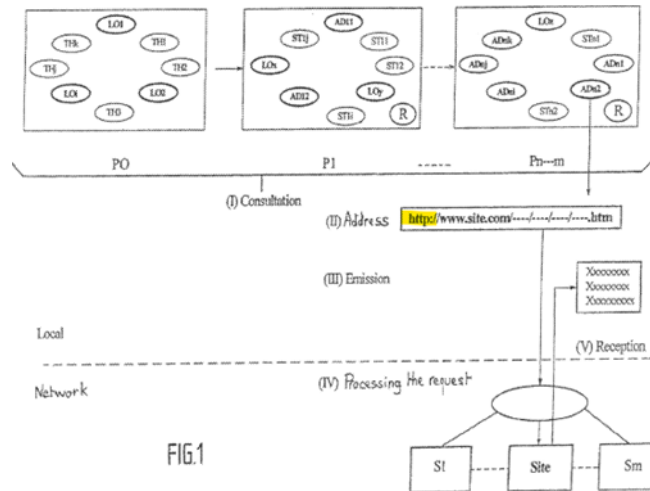
²⁴ Ex. 2 at ALL_002038.

²⁵ Ex. 7 at 506; Edwards Decl. at ¶61.

²⁶ See, e.g., Ex. 1 at A-i; see also *Abdulraheem v. USCIS*, 1:23-CV-00894-DII-SH, 2023 U.S. Dist. LEXIS 181744, at *1 n.3 (W.D. Tex. Oct 10, 2023) (“Courts may take judicial notice of information posted on a government website.”) (citing *Kitty Hawk Aircargo, Inc. v. Chao*, 418 F.3d 453, 457 (5th Cir. 2005)).

²⁷ Cf. Edwards Decl. at ¶¶63-64.

²⁸ Dkt. No. 21 at 6-7.



Apple also cites a passage of the specification that shows web addresses may be formed using HTTP:

Then the user selects the icon ADn2 “Club of supporters” and the activation of this icon causes generating (II) the complete address of the welcome page for this site, given as a way of non-limitative example: <http://site.com/---/---/---.htm>.²⁹

These disclosures are not surprising because the HTTP protocol is one of the building blocks of web sites.³⁰

Apple further cites a passage of the specification that shows that a web site may be characterized merely as documents accessible via a URL:

Pointing and clicking by means of a mouse on the corresponding active zone causes generating by the navigation software a Web address on Internet, permitting access to selected site, and within said site, *to a document or a plurality of searched documents*. In fact, in response to such a request, the requesting station can receive either directly a document, or usually a new HTML page containing itself a more and less high number of links among which the user will still have to make a new choice.³¹

A POSITA reading this part of the specification would understand that “web sites” are (1) sources of information and services that are (2) accessed via a network (3) using a request-response

²⁹ Dkt. No. 1-1 at 4:42-44 (emphasis added); Dkt. No. 21 at 7.

³⁰ Edwards Decl. at ¶¶58-59.

³¹ Dkt. No. 1-1 at 1:26-35 (emphasis added); Dkt. No. 21 at 6.

protocol, such as HTTP.³² Even if the specification discloses a web site as a collection of web pages associated with a web address, that does not mean that the term “web site” is limited to this disclosure. Indeed, doing so would be improper.³³

In sum, Allani’s proposed construction is consistent with the plain and ordinary meaning of “web site” and the intrinsic record and should be adopted. Apple’s proposed construction imposes improper limitations on the ordinary meaning of a “web site” and should be rejected.

2. “selection page”

Term	Allani’s Proposed Construction	Apple’s Proposed Construction
“selection page” '877 patent claims 12 and 17 '058 patent claims 25 and 27	A screen with selectable icons that are displayed together on a graphical user interface	No construction/plain and ordinary meaning

The Court should adopt Allani’s proposed construction of “selection page” because it is consistent with the intrinsic record. Apple proposes to use the “plain and ordinary meaning” of the term “selection page.” In this instance, however, the plain and ordinary meaning is misleading because the patents-in-suit do not require the claimed “selection page” to be a page *per se*.

Instead, the patents-in-suit refer to selection pages as “screen pages:”

This first page Po constitutes the trunk of a tree structure schematically represented in FIG. 2 for the whole *screen-pages locally stored in a storage unit*, for example a hard disk unit or a CD-ROM, of the apparatus wherein this method is implemented.³⁴

³² Edwards Decl. at ¶¶57-59.

³³ See *Kara Tech Inc. v. Stamps.com Inc.*, 582 F.3d 1341, 1348 (Fed. Cir. 2009) (“The patentee is entitled to the full scope of his claims, and we will not limit him to his preferred embodiment or import a limitation from the specification into the claims.”).

³⁴ Dkt. No. 1-1 at 3:66-67-4:3; Dkt. No. 1-2 (the '058 patent) at 4:4-8 (emphasis added).

Contrary to what Apple claims, Allani's construction is not incompatible with the rest of the claim language.³⁵ A screen displayed by the graphical user interface can be locally stored. The specification expressly says so.³⁶

Apple falsely contends that Allani's proposed construction attempts to broaden the term "selection page" to mean any screen that is displayed by a graphical user interface without regard to whether the selection page is locally stored in the claimed storage device when it is not being displayed. As Apple admits, the asserted claims already require that the selection page is locally stored.³⁷ There is no need recite in the construction of "selection page" that it is locally stored. Indeed, Apple's plain and ordinary meaning construction has no such limitation.

Finally, Allani's proposed construction is not redundant of the claim language as Apple claims. The term "selection page" itself does not provide any information regarding what constitutes a selection page other than the plain English words "selection" and "page." But "selection pages" are characterized by having selectable icons. The surrounding claim language merely define what these selectable icons are and is not redundant of Allani's construction. Apple incorrectly suggests that a "selection page" must contain only selection icons and direct access icons.³⁸ A "selection page" also may include one or more icons for directly accessing a search engine on the Web.³⁹

³⁵ Dkt. No. 21 at 8-9.

³⁶ Dkt. No. 1-1 at 3:66-67-4:3; Dkt. No. 1-2 at 4:4-8 (emphasis added).

³⁷ Dkt. No. 21 at 8; *see also* Dkt. No. 1-1 at claim 12 ("within a plurality of selection pages organized in said structure of tree menu and beforehand locally stored in said data storage means within said communication device."); Dkt. No. 1-2 at claim 27 ("said selection pages being organized in a tree menu structure and beforehand locally stored within said communication device.").

³⁸ Dkt. No. 21 at 9.

³⁹ Dkt. No. 1-2 at claims 25, 27.

In sum, Allani’s proposed construction provides additional clarity as to what a selection page is. Apple’s proposed construction, on the other hand, does not provide any clarity as to what makes a page a selection page. As such, the Court should adopt Allani’s proposed construction and reject Apple’s proposal.

3. “icon”

Term	Allani’s Proposed Construction	Apple’s Proposed Construction
“icon” '877 patent claims 12, 15, 17-19 '058 patent claims 25 and 27	Plain and ordinary meaning	A symbol that is a pictorial indication of a command

The term “icon” is readily understandable and does not require any further construction beyond the plain and ordinary meaning of the word as used in the claims. Allani disputes the portion of Apple’s construction that requires that an “icon” to be an “indication of a command.” This portion of Apple’s construction is overly limiting, injects unnecessary ambiguity into the claims, and should be rejected.

Apple attempts to support its proposed construction by citing several exemplary passages from the patent specification and claiming that each of them uses the term icon in the sense of “invoking a command.”⁴⁰ But the specification never states that the icons are limited to invoking a command, much less uses the terminology “invoking a command.” If anything, the specification suggests that the claimed selections pages may contain commands not represented by “icons:”

Each selection page can also include usual consultation commands such as “WELCOME PAGE”, “PRINT”, “PREVIOUS PAGE”, “NEXT PAGE”, “END OF SESSION”, “HELP”.⁴¹

⁴⁰ Dkt. No. 21 at 9-10.

⁴¹ Dkt. No. 1-1 at 4:59-62.

Even if the passages that Apple cites could be construed as describing an icon as “invoking a command,” which they should not, “it is improper to read limitations from a preferred embodiment described in the specification”⁴² into the claims, as Apple tries to do.

Apple also tries to support its narrow construction by citing a single dictionary definition of “icon” that uses the phrase “indication of a command,” but this extrinsic evidence is inconclusive.⁴³ The text of Apple’s dictionary defines an “icon” as “a symbol that is a pictorial indication of a command *or* object and is located on a graphics tablet or an on-screen menu.”⁴⁴ This text alone shows that an “icon” is not limited to an “indication of a command” because an “icon” also could be an “indication of an object.” Apple fails to explain why it deleted the “or object” part of its dictionary definition from its proposed construction, or the rest of the definition for that matter.

Moreover, contrary to what Apple claims, a POSITA would not understand the term “icon” to be limited to “an indication of a command” because other dictionaries make no mention of this limitation. For example, Barron’s Dictionary of Computer and Internet Terms 1998 (6th Ed.) defines an icon as “a small picture on a computer screen that represents a particular object, operation, or group of files.”⁴⁵ Similarly, Webster’s New World Dictionary of Computer Terms 1999 (7th Ed.) defines an icon as “an on-screen symbol that represents a program, data file, or some other computer entity or function.”⁴⁶ Both of these definitions show that an “icon” can represent many other items besides a command, which is consistent with the terms usage in the

⁴² See *Dealertrack, Inc. v. Huber*, 674 F.3d 1315, 1327 (Fed. Cir. 2012); see also *Kara Tech*, 582 F.3d at 1348 (“The patentee is entitled to the full scope of his claims, and we will not limit him to his preferred embodiment or import a limitation from the specification into the claims.”).

⁴³ Dkt. No. 21-1 at 4 of 5.

⁴⁴ *Id.* (emphasis added).

⁴⁵ Ex. 2 at ALL_002035.

⁴⁶ Ex. 3 at ALL_002043.

specification.⁴⁷ Accordingly, the Court should adopt Allani’s proposed construction and reject Apple’s proposed construction.

4. “direct access icon”

Term	Allani’s Proposed Construction	Apple’s Proposed Construction
“direct access icon” ’877 patent claim 12 ’058 patent claims 24 and 27	An icon that, when selected, causes an address of at least one website to be transmitted to a network. (’877 patent claims 12, 15, 17-19, and ’058 patent claim 27) An icon that, when selected, causes an address of at least one remote information or service source to be transmitted to a network. (’058 patent claims 24-26)	An icon that, when selected, causes a request to be sent directly to a web server hosting the website indicated by the icon

The Court should adopt Allani’s proposed construction because it is consistent with the plain claim language and the intrinsic record. Although the parties’ proposed constructions are similar, Apple’s proposed construction is too narrow and should be rejected.

Allani does not disagree that a direct access icon takes a user “directly to the specific information they are trying to access.”⁴⁸ The claims at issue require either “one or more direct access icons for directly accessing an information or service-providing web site” (’877 claim 12, ’058 claim 24) or “one direct access icon capable of being selectively activated to connect said mobile communication device to a ... predetermined one of said remote sources of information or

⁴⁷ See, e.g., Dkt. No. 1-1 at 3:57-62 (commercial icons), 3:63-65(thematic icons), 4:8-16 (icons for accessing sites and documents), 4:17-18 (icons for selecting sub-categories or sub-themes), 4:32-39 (icons for accessing sites and information sources), 4:40-41 (icons corresponding to sub-themes).

⁴⁸ Dkt. No. 21 at 11.

services” (’058 patent claim 24). One of the reasons Apple’s proposed construction is too narrow is that it requires that the direct access icon indicate the website that the user is trying to access. Taken literally, this means that the name of the website that the user is trying to access must appear in icon itself. But this interpretation conflicts with the plain and ordinary meaning of an “icon,” which is merely a representation of something not the thing itself.⁴⁹

Another reason Apple’s proposed construction is too narrow is that it requires selecting a direct access icon to cause “a request” to be sent. The portions of the specifications that Apple relies on, however, demonstrate that direct access icons cause an address to be transmitted to a network:

Then the user selects the icon ADn2 “Club of supporters” and the activation of this icon causes generating (II) the complete *address* of the welcome page for this site, given as a way of non-limitative example: <http://site.com/--/--/--.htm>

*This address is then emitted (III) on the Web through the communication network to which the apparatus is connected ...*⁵⁰

The concept of transmitting an address to a network is expressly recited in claim 12 of the ’877 patent: “emitting on the communication network, in response to selecting a direct access icon by the pointing and selection device or devices in a selection page being currently displayed, an address of an information- or service-providing web site corresponding to said selected direct access icon.”⁵¹ It also is recited in claim 26 of the ’058 patent, which recites “selective activation

⁴⁹ See *supra* n. 45-46; see also Dkt. No. 1-1 at 1:24-25 (“The choices of a site or of a heading are *represented* either by a designation or by an icon or a fixed or animated image.”).

⁵⁰ Dkt. No. 1-1 at 4:41-46; see also *id.* at 2:4-36 (“Thus, by locally implementing preliminary selection steps in pages organized in a tree manner and operating as rolling menus, and by finally *emitting on Internet only a complete address* for accessing a well-targeted information source, the mean time duration observed for accessing searched information is drastically reduced.”) (emphasis added); see also *id.* at 2:49-50 (“If [it] is an icon with the ‘direct access icon’ type, the next step will be a step for *emitting an address* towards a Web site.”) (emphasis added).

⁵¹ Dkt. No. 1-1 at claim 12.

of a direct access icon comprises emitting, on the communication network, an address of the first, second or third predetermined one of said remote sources.”⁵² Apple cites no evidence that the patents-in-suit ever characterize a direct access icon in terms of sending a request, much less sending a request to a web server. As such, this portion of Apple’s proposed construction is improper.

Additionally, Apple’s proposed construction is problematic because it fails to consider that not all of the asserted claims require that a direct access icon access a website. Claim 24 of the ’058 patent does not recite a website, but rather recites a “direct access icon capable of being selectively activated to connect said mobile communication device to a ... predetermined *one of said remote sources of information or services*.”⁵³ Allani’s proposed constructions account for this difference in the claims and should be adopted.

Further, Apple contends that Allani’s construction is inconsistent with an aspect of the invention because it allegedly does not require that the address is sent directly to the desired website. The patents-in-suit, however, do not state that the icon must be associated with only one address, but rather *an* address:

The user is thus informed about the nature of the step that follows his selection. If is an icon with the ‘direct access icon’ type, the next step will be a step for emitting *an* address towards a Web site.⁵⁴

In fact, nowhere in the patents-in-suit are direct access icons limited to one address. Direct access icons are only described to have “[corresponding] information sources”⁵⁵ and “[corresponding] addresses of information sources.”⁵⁶ The ’877 patent specifies that “selecting a direct access icon

⁵² Dkt. No. 1-2 at claim 26.

⁵³ *Id.* at claim 24 (emphasis added).

⁵⁴ *Id.* at 2:47-52 (emphasis added); Edwards Decl. at ¶70.

⁵⁵ Dkt. No. 1-1 at 3:28-29; Edwards Decl. at ¶71.

⁵⁶ *Id.*

in a selection page currently being displayed [causes] an address of the information source corresponding to said direct access icon [to be emitted].”⁵⁷ This quote specifies “an” address not “the” address, indicating that a direct access icon may correspond to one or more addresses. Other embodiments show that the “direct access icons can [...] comprise icon for accessing merchant sites.”⁵⁸ The ’058 patent also does not limit the direct access icon to correspond with only one address. It states that selecting icons “with the ‘direct access icon’ type, [results in] emitting an address towards a Web site.”⁵⁹ Similarly, direct access icons may “comprise icons for accessing merchant sites”⁶⁰ and correspond to “addresses of information sources.”⁶¹

Finally, Apple’s proposed construction is problematic because it is inconsistent with the practical realities of web-based technologies. A POSITA would understand that a user does not access a web site solely by contacting the web server hosting the website. Rather, a POSITA would understand that web services use a plurality of web servers to deliver desired content to an end user.⁶²

For all of these reasons, the Court should adopt Allani’s proposed construction and reject Apple’s proposed construction.

5. “said address being locally generated”

Term	Allani’s Proposed Construction	Apple’s Proposed Construction
“said address being locally generated” ’877 patent claims 12, 15, 17-19	Said address being stored on the device in table or base of addresses or generated on the device	Said address being created on the device

⁵⁷ *Id.*

⁵⁸ *Id.*; Dkt. No. 1-1 at 2:37-38.

⁵⁹ Dkt. No. 1-2 at 2:46-48; Edwards Decl. at ¶72.

⁶⁰ Dkt. No. 1-2 at 2:34-35; Edwards Decl. at ¶72.

⁶¹ Dkt. No. 1-2 at 2:20-21; Edwards Decl. at ¶72.

⁶² *Id.* at ¶71.

'058 patent claim 27		
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Apple spends its entire argument addressing whether this term requires that the claimed address be generated on the device, as opposed to remote from the device.⁶³ But Apple's argument addresses an issue that is not in dispute. The parties appear to agree that the term "said address being locally generated" requires an action on the claimed mobile device. Apple, however, tries to alter the meaning of the plain claim language by substituting the word "created" for the word "generated." Apple provides no support for this change in terminology. Indeed, nowhere do the patents-in-suit state that addresses are "created" on the device. The patents-in-suit refer to addresses that are "generated" on the device.⁶⁴ The word "generated" is a plain English word that would be understandable to a jury and does not require clarification.

Allani also believes that the patents-in-suit inform a POSITA that the locally generated addresses may be stored on the device in table or base of addresses or be generated on the device. Although Apple has not disputed this aspect of Allani's proposed construction, in an effort to resolve whatever dispute might exist, Allani agrees to modify its proposed construction to be "said address being generated on the device."

B. The '058 Patent

1. "specifically designed to include"

Term	Allani's Proposed Construction	Apple's Proposed Construction
"specifically designed to include"	Used to include. Not indefinite	Indefinite
'058 Patent claims 24-27		

⁶³ Dkt. No. 21 at 13-15.

⁶⁴ Dkt. No. 1-1 at 2:25, 3:30.

Allani proposes that the term “specifically designed to include” be construed to mean “used to include.” Apple does not appear to dispute the interpretation of this term itself, as a matter of claim construction. Rather, Apple asserts that the term is indefinite. It is not. A patent has a statutory presumption of validity and claim terms should be construed to preserve its validity.⁶⁵ Patent claims when read in conjunction with the specification and prosecution history must “inform with reasonable certainty, those skilled in the art about the scope of the invention.”⁶⁶ When a claim is alleged to be indefinite, indefiniteness must be proved by clear and convincing evidence.⁶⁷ Apple has not and cannot meet this burden.

Apple cannot establish that the patents-in-suit fail to inform a POSITA of the bounds of the claims by clear and convincing evidence because Apple’s arguments are based solely on attorney argument.⁶⁸ Attorney argument is not evidence. Without extrinsic evidence support, Apple has no basis to argue that the term “specifically designed to include” renders claims 24-27 indefinite.

Moreover, Apple overlooks the fact that the prosecution history of the ’058 patent expressly informs a POSITA of what Allani intended the term “specifically designed to” to mean. In a response to an Office Action dated June 12, 2020, Allani amended the claims to require that the claimed locally stored pages or selection pages be specifically designed for containing selection

⁶⁵ *MBO Laboratories, Inc. v. Benton, Dickinson & Co.*, 474 F.3d 1323, 1332 (Fed. Cir. 2007); *see, also*, 35 U.S.C. § 282(b) (“A patent shall be presumed valid.”).

⁶⁶ *Nautilus, Inc. v. Biosig Instruments, Inc.*, 134 S. Ct. 2120, 2125 (2014).

⁶⁷ *Ultra-Tex Surfaces, Inc. v. Hill Bros. Chem. Co.*, 204 F.3d 1360, 1367 (Fed. Cir. 2000); *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1570 (Fed. Cir. 1987) (stating that presumption mandated by § 282 is applicable to all of the many bases for challenging a patent’s validity).

⁶⁸ *See Hand Held Prods., Inc. v. Amazon.com, Inc.*, No. 12-768, 2014 U.S. Dist. LEXIS 85345, at *14-*15, *48-*49 (D. Del. June 24, 2014) (citing Amazon’s lack of expert testimony in rejecting Amazon’s indefiniteness arguments).

icons and direct-access icons.⁶⁹ Allani stated “[r]equiring an element to be ‘specifically designed’ for another element narrows the claim because it requires more than the first element being merely capable of being used with the second element.”⁷⁰ Rather than use the phrase “configured to,” which is generally construed to be synonymous with “made to” and “designed to,” Allani chose to use the term “specifically designed to” “to avoid any confusion as to the narrower scope of the claims as amended.”⁷¹ In this way, “specifically designed to” does not introduce ambiguity as to the subjective intent of an engineer or a designer as Apple contends.⁷² Rather, the term clearly sets the scope of claims 24-27 by excluding pages that are merely capable of containing selection icons and direct access icons. Indeed, the patents-in-suit do not disclose any such pages.⁷³ Notably, the USPTO expressed no indefiniteness concerns regarding the “specifically designed to” language during the prosecution history of the ’058 patent.

Finally, under the Scheduling Order, Apple was required to provide invalidity contentions that identified any claim limitation that Apple contends are indefinite.⁷⁴ Apple did not contend that the term “specifically designed to include” is indefinite in its preliminary invalidity contentions.⁷⁵ Under the Court’s Order Governing Proceedings—Patent Cases, Apple may amend its contentions if the amendment is based on material identified *after* it served its contentions.⁷⁶ Apple does not and cannot show any reason why it could not identify “specifically designed to”

⁶⁹ Ex. 4; Ex. 5 at 13.

⁷⁰ *Id.* at 14.

⁷¹ *Id.* (citing *In re Giannelli*, 739 F.3d 1375, 1379-80 (Fed. Cir. 2014)).

⁷² *Contra* Dkt. No. 21 at 15-16.

⁷³ Edwards Decl. at ¶¶76-79; *see MHL Custom, Inc. v. Waydoo USA, Inc.*, Civil Action No. 21-91-RGA, 2022 U.S. Dist. LEXIS 111958, at *11 (D. Del. June 24, 2022) (“designed to provide stability” found not indefinite based on expert’s analysis of the specification).

⁷⁴ Dkt. No. 18 at 2 of 6.

⁷⁵ Ex. 6. at 46-49.

⁷⁶ *See* Order Governing Proceedings—Patent Cases 4.4, at 13 n. 13.

as indefinite in its invalidity contentions. Courts have held that a party “waived the right to assert [an] indefiniteness challenge” because it had not disclosed its indefiniteness arguments in its invalidity contentions, but only during preparations for claim construction.⁷⁷ Because Apple also has not been diligent in disclosing its indefiniteness argument, the Court should not consider it.

V. CONCLUSION

In conclusion, Allani respectfully requests that the Court adopt Allani’s claim constructions and reject Apple’s proposed constructions.

⁷⁷ See *Illumina Inc. v. BGI Genomics Co.*, No. 20-cv-01465-WHO, 2020 U.S. Dist. LEXIS 222471, at *27-*28 (N.D. Cal. Nov. 24, 2020).

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CERTIFICATE OF SERVICE

I certify that on March 20, 2025 I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Lewis E. Hudnell, III
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