

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

COMPETITIVE ACCESS SYSTEMS, INC.,	§	
	§	
<i>Plaintiff,</i>	§	Case No. 1:23-cv-00286-DII
v.	§	
	§	JURY TRIAL DEMANDED
ORACLE CORPORATION, and	§	
ORACLE AMERICA, INC.,	§	
	§	
<i>Defendants.</i>	§	

JOINT CLAIM CONSTRUCTION STATEMENT

Pursuant to the Proposed Scheduling Order (Dkt. No. 70), Plaintiff Competitive Access Systems, Inc. (“CAS” or “Plaintiff”) and Defendants Oracle Corporation and Oracle America, Inc. (collectively, “Oracle” or “Defendants”) (together, the “Parties”) hereby submit this Joint Claim Construction Statement regarding U.S. Patent No. 8,228,801, entitled “Broadband Communications Device” (“the ’801 Patent”), U.S. Patent No. 9,350,649, entitled “Multipath Communication Devices and Methods”) (“the ’649 Patent”), and U.S. Patent No. 10,868,908, entitled “Devices and Methods for Multipath Communications” (“the ’908 Patent”) (collectively, “the Asserted Patents”).

I. AGREED UPON CLAIM TERMS AND THEIR CONSTRUCTIONS

The Parties held a meet-and-confer pursuant to the Proposed Scheduling Order (Dkt. No. 70), and have reached agreement on the construction of the following claim terms:

Claim Term(s)	Patent Claim(s)	Agreed Construction
“wherein the first message includes a multilink request a destination URL”	’908 Patent, Claim 1	“wherein the first message includes a multilink request and a destination URL”

Claim Term(s)	Patent Claim(s)	Agreed Construction
“wherein the second message includes a multilink session identification the destination URL”	’908 Patent, Claim 1	“wherein the second message includes a multilink session identification and the destination URL”
“the particular multilink connection”	’649 Patent, Claim 10	“the particular multipath connection”

Should the Parties reach agreement as to the constructions of additional terms at a later date, they will supplement the Joint Claim Construction Statement prior to the Claim Construction hearing.

II. DISPUTED CLAIM TERMS AND SUPPORTING EVIDENCE

The Parties have identified in Exhibit A a total of 15 disputed terms from the claims of the Asserted Patents. Exhibit A to this Statement sets forth (a) the claim terms from the Asserted Patents for which the Parties have not agreed on a construction, (b) each party’s proposed construction for those terms, (c) references from the specification or prosecution history that each party contends support its proposed construction, and (d) extrinsic evidence known to each party on which it may rely either to support its proposed construction or to oppose the other party’s proposed construction.

III. ANTICIPATED LENGTH OF THE CLAIM CONSTRUCTION HEARING

The parties anticipate that three hours will be necessary for the Claim Construction hearing.

Dated: August 10, 2023

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document has been served on August 10, 2023 via the Court's CM/ECF filing system to counsel of record for Defendants at the following addresses:

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EXHIBIT A

Competitive Access Systems, Inc. v. Oracle Corporation, et. al (1:23-cv-00286-DII)**EXHIBIT A****Plaintiff's and Defendants' Proposed Constructions and Identification of Evidence****U.S. Patent No. 9,350,649**

Claim No(s).	Claim Term/Phrase	Plaintiff's Proposed Construction and Identification of Evidence	Defendants' Proposed Construction and Identification of Evidence
1, 3-5, 7-9, 21	"multipath connection"	"a connection including multiple physical links." '649 Patent, 10:37-12:57 and Figs. 7-9.	"multilink PPP connection" <u>Evidence:</u> '649 patent, 4:10-19, 10:36-13:52, 14:29-33; Figures 1, 6-9. Prosecution history of US 9,350,649 patent (hereinafter "'649 FH"):¹ • Initial Claim Set (CAS_ORACLE001262-65) • Preliminary Amendment, dated July 23, 2015 (CAS_ORACLE001193-99) • Non-Final Office Action Rejection, dated August 18, 2015 (CAS_ORACLE001172-77) • Claim Amendments and Office Action Response, dated November 18, 2015 (CAS_ORACLE001151-60) • Final Office Action Rejection, dated December 30, 2015 (CAS_ORACLE001134-40) • After-Final Office Action Response, dated March 30, 2016 (CAS_ORACLE001117-26) • Defendants reserve the right to cite to any statements made by Patent Owner in its upcoming Preliminary Response in IPR2023-00880 currently due on August 23, 2023

¹ Including the cited prior art references contained therein.

Competitive Access Systems, Inc. v. Oracle Corporation, et. al (1:23-cv-00286-DII)**U.S. Patent No. 9,350,649**

Claim No(s).	Claim Term/Phrase	Plaintiff's Proposed Construction and Identification of Evidence	Defendants' Proposed Construction and Identification of Evidence
			Prosecution history of US 10,868,908 patent (hereinafter “'908 FH”):² • Initial Claim Set (CAS_ORACLE000394-5) • Non-Final Office Action Rejection, dated October 12, 2016 (CAS_ORACLE000332-6) • Claim Amendments and Office Action Response, dated February 13, 2017 (CAS_ORACLE000317-25) • Final Office Action Rejection, dated April 17, 2017 (CAS_ORACLE000307-12) • After-Final Claim Amendments and Response, dated July 17, 2017 CAS_ORACLE000296-302 • Advisory Action dated August 9, 2017 (CAS_ORACLE000292-4) • Non-Final Office Action Rejection, dated October 3, 2017 (CAS_ORACLE000273-8) • Claim Amendments and Office Action Response, dated January 9, 2018 (CAS_ORACLE000261-7) • Claim Amendments and Office Action Response, dated May 21, 2018 (CAS_ORACLE000239-47) • Final Office Action Rejection, dated October 9, 2018 (CAS_ORACLE000163-75) • Claim Amendments and Request for Continued Examination, dated February 11, 2019 (CAS_ORACLE000152-62)

² Including the cited prior art references contained therein.

Competitive Access Systems, Inc. v. Oracle Corporation, et. al (1:23-cv-00286-DII)**U.S. Patent No. 9,350,649**

Claim No(s).	Claim Term/Phrase	Plaintiff's Proposed Construction and Identification of Evidence	Defendants' Proposed Construction and Identification of Evidence
			• Non-Final Office Action Rejection, dated March 29, 2019 (CAS_ORACLE000115-24) • Claim Amendments and Office Action Response, dated June 21, 2019 (CAS_ORACLE000097-113) • Final Office Action Rejection, dated August 16, 2019 (CAS_ORACLE000075-88) • Claim Amendments and Request for Continued Examination, dated February 14, 2020 (CAS_ORACLE000058-70) • Non-Final Office Action Rejection, dated March 10, 2020 (CAS_ORACLE000036-41) • Claim Amendments and Office Action Response, dated June 10, 2020 (CAS_ORACLE000024-35) • Patent Owner Preliminary Response in IPR2023-00584, Paper 6 Defendants may rely on the expert testimony of Kevin Jeffay, Ph.D., as to how one of ordinary skill in the art at the time of the invention, having reviewed the relevant intrinsic and extrinsic evidence would have understood the meaning and scope of this term. In addition, Dr. Jeffay may also address any evidence on the construction of this term that is offered by CAS. Dictionary definitions at: ORCL_CAS_00156691; ORCL_CAS_00156694-00156695; ORCL_CAS_00156710; ORCL_CAS_00156711; ORCL_CAS_00156712; ORCL_CAS_00156713; ORCL_CAS_00156716; ORCL_CAS_00156717; ORCL_CAS_00156718; ORCL_CAS_00156720;

Competitive Access Systems, Inc. v. Oracle Corporation, et. al (1:23-cv-00286-DII)**U.S. Patent No. 9,350,649**

Claim No(s).	Claim Term/Phrase	Plaintiff's Proposed Construction and Identification of Evidence	Defendants' Proposed Construction and Identification of Evidence
			ORCL_CAS_00156724-00156725; ORCL_CAS_00156726; ORCL_CAS_00156727; ORCL_CAS_00156728. RFC 1990: ORCL_CAS_00140529-140552.
1, 7	"A method for establishing and sending data during a <u>multipath connection</u> "	The <u>underlined</u> term has been addressed above and to the extent that any other phrase requires construction (including the entire phrase), then the plain and ordinary meaning should be adopted.	"A method for establishing a [multipath connection] and sending data during the [multipath connection]" ³ <u>Evidence:</u> '649 patent, 5:2-8, 5:31-37, 10:36-11:7, 11:21-46, 11:47-13:1; Figures 1, 6-9. Dr. Jeffay may also address any evidence on the construction of this term that is offered by CAS.
3	"second <u>multipath information</u> about a second network-edge device"	The <u>underlined</u> term has been addressed above and to the extent that any other phrase requires construction (including the entire phrase), then the plain and ordinary meaning should be adopted.	"additional (second) [multipath information] about an additional (second) network-edge device" ⁴ <u>Evidence:</u> '649 patent, 11:3-7, 11:26-32, 11:60-12:57; Figures 7-9. Dr. Jeffay may also address any evidence on the construction of this term that is offered by CAS.

³ Text in brackets [] indicates terms that are being separately proposed for construction.

⁴ Text in brackets [] indicates terms that are being separately proposed for construction.

Competitive Access Systems, Inc. v. Oracle Corporation, et. al (1:23-cv-00286-DII)

U.S. Patent No. 8,228,801

Claim No(s).	Claim Term/Phrase	Plaintiff's Proposed Construction and Identification of Evidence	Defendants' Proposed Construction and Identification of Evidence
1, 10	"requesting use of a portion of unused bandwidth"	Plain and ordinary meaning. Not indefinite.	Indefinite <u>Evidence:</u> '801 patent, 11:62-12:29. Prosecution history of US 8,228,801 patent (hereinafter "'801 FH"):⁵ • Initial Claim Set (CAS_ORACLE000804-6) • Preliminary Amendment, dated June 17, 2010 (CAS_ORACLE000728-33) • Preliminary Amendment, dated March 20, 2012 (CAS_ORACLE000720-4) Prosecution history of US 7,606,156 patent (hereinafter "'156 FH"):⁶ • Initial Claim Set (CAS_ORACLE000679-82) • Claim Amendments and Office Action Response, dated January 22, 2008 (CAS_ORACLE000601-10) • Claim Amendments and Office Action Response, dated January 24, 2008 (CAS_ORACLE000590-8) • Final Office Action Rejection, dated February 25, 2009 (CAS_ORACLE000560-4) • After-Final Response, dated April 24, 2009 (CAS_ORACLE000552-5)

⁵ Including the cited prior art references contained therein.

⁶ Including the cited prior art references contained therein.

Competitive Access Systems, Inc. v. Oracle Corporation, et. al (1:23-cv-00286-DII)

U.S. Patent No. 8,228,801

Claim No(s).	Claim Term/Phrase	Plaintiff's Proposed Construction and Identification of Evidence	Defendants' Proposed Construction and Identification of Evidence
			- Advisory Action, dated May 1, 2009 (CAS_ORACLE000547-9) - After-Final Response, dated May 13, 2009 (CAS_ORACLE000536-41) - Examiner Interview Summary, dated May 15, 2009 (CAS_ORACLE000534-6) Defendants may rely on the expert testimony of Kevin Jeffay, Ph.D., as to how one of ordinary skill in the art at the time of the invention, having reviewed the relevant intrinsic and extrinsic evidence would not have understood the meaning and scope of this term with reasonable certainty. In addition, Dr. Jeffay may also address any evidence on the construction of this term that is offered by CAS.
1	"requests the at least one remote communications device to assist in transferring data"	Plain and ordinary meaning. Not indefinite.	Indefinite <u>Evidence:</u> '801 patent, 11:26-35, 11:62-12:29. '801 FH, Prosecution history of US 8,861,349 patent (hereinafter "'349 FH"):⁷ - Initial Claim Set (CAS_ORACLE001081-2) - Non-Final Office Action Rejection, dated November 29, 2012 (CAS_ORACLE001026-34)

⁷ Including the cited prior art references contained therein.

Competitive Access Systems, Inc. v. Oracle Corporation, et. al (1:23-cv-00286-DII)**U.S. Patent No. 8,228,801**

Claim No(s).	Claim Term/Phrase	Plaintiff's Proposed Construction and Identification of Evidence	Defendants' Proposed Construction and Identification of Evidence
			• Claim Amendments and Office Action Response, dated April 29, 2013 (CAS_ORACLE001013-20) • Final Office Action Rejection, dated May 29, 2013 (CAS_ORACLE001001-7) • After-Final Claim Amendments and Office Action Response, dated July 25, 2013 (CAS_ORACLE000991-7) • Non-Final Office Action Rejection, dated September 13, 2013 (CAS_ORACLE000966-73) • Claim Amendments and Office Action Response, dated December 12, 2013 (CAS_ORACLE000955-62) • Final Office Action Rejection, dated December 30, 2013 (CAS_ORACLE000942-9) • Claim Amendments and Request for Continued Examination, dated March 31, 2014 (CAS_ORACLE000908-17) • Non-Final Office Action Rejection, dated April 21, 2014 (CAS_ORACLE000893-8) • Claim Amendments and Office Action Response, dated July 21, 2014 (CAS_ORACLE000869-79) • Final Office Action Rejection, dated August 21, 2014 (CAS_ORACLE000855-9) • After-Final Response, dated August 25, 2014 (CAS_ORACLE000838-51)

Competitive Access Systems, Inc. v. Oracle Corporation, et. al (1:23-cv-00286-DII)

U.S. Patent No. 8,228,801

Claim No(s).	Claim Term/Phrase	Plaintiff's Proposed Construction and Identification of Evidence	Defendants' Proposed Construction and Identification of Evidence
			Defendants may rely on the expert testimony of Kevin Jeffay, Ph.D., as to how one of ordinary skill in the art at the time of the invention, having reviewed the relevant intrinsic and extrinsic evidence would not have understood the meaning and scope of this term with reasonable certainty. In addition, Dr. Jeffay may also address any evidence on the construction of this term that is offered by CAS.
1	"multilink connection"	"A connection including multiple physical links." '801 Patent, 10:37-12:57 and Figs. 7-9.	"multilink PPP connection" <u>Evidence:</u> '801 patent, 4:10-19, 10:36-13:52, 14:29-36, 15:55-16:3; Figures 1, 6-9. '801 FH, '649 FH, '908 FH, '156 FH, '349 FH. Dr. Jeffay may also address any evidence on the construction of this term that is offered by CAS. Dictionary definitions at: ORCL_CAS_00156694-00156695; ORCL_CAS_00156711; ORCL_CAS_00156713; ORCL_CAS_00156717; ORCL_CAS_00156720; ORCL_CAS_00156726; ORCL_CAS_00156727; ORCL_CAS_00156728. RFC 1990: ORCL_CAS_00140529-140552.

Competitive Access Systems, Inc. v. Oracle Corporation, et. al (1:23-cv-00286-DII)

U.S. Patent No. 8,228,801

Claim No(s).	Claim Term/Phrase	Plaintiff's Proposed Construction and Identification of Evidence	Defendants' Proposed Construction and Identification of Evidence
4	"multilink group transfer"	Plain and ordinary meaning, defined as "transferring data over a multilink connection." '801 Patent, 11:21-12:57 and Figs. 7-9.	"multilink PPP bundle" <u>Evidence:</u> '801 patent, 4:10-19, 10:36-13:52, 14:29-36, 15:55-16:3; Figures 1, 6-9. '801 FH, '649 FH, '908 FH, '156 FH, '349 FH. Dr. Jeffay may also address any evidence on the construction of this term that is offered by CAS. Dictionary definitions at: ORCL_CAS_00156694-00156695; ORCL_CAS_00156711; ORCL_CAS_00156713; ORCL_CAS_00156717; ORCL_CAS_00156720; ORCL_CAS_00156726; ORCL_CAS_00156727; ORCL_CAS_00156728. RFC 1990: ORCL_CAS_00140529-140552.
10	"multilink transfer"	Plain and ordinary meaning, defined as "transferring data over a multilink connection." '801 Patent, 11:21-12:57 and Figs. 7-9.	"transfer of data using multilink PPP" <u>Evidence:</u> '801 patent, 4:10-19, 10:36-13:52, 14:29-36, 15:55-16:3; Figures 1, 6-9. '801 FH, '649 FH, '908 FH, '156 FH, '349 FH. Dr. Jeffay may also address any evidence on the construction of this term that is offered by CAS.

Competitive Access Systems, Inc. v. Oracle Corporation, et. al (1:23-cv-00286-DII)

U.S. Patent No. 8,228,801

Claim No(s).	Claim Term/Phrase	Plaintiff's Proposed Construction and Identification of Evidence	Defendants' Proposed Construction and Identification of Evidence
			Dictionary definitions at: ORCL_CAS_00156694-00156695; ORCL_CAS_00156711; ORCL_CAS_00156713; ORCL_CAS_00156717; ORCL_CAS_00156720; ORCL_CAS_00156726; ORCL_CAS_00156727; ORCL_CAS_00156728. RFC 1990: ORCL_CAS_00140529-140552.
1, 10	"information about the portion of unused bandwidth"	Plain and ordinary meaning.	"information including at least a measurement of the portion of unused bandwidth available for use in a multilink PPP connection" <u>Evidence:</u> '801 patent, 11:62-12:29. '801 FH, '156 FH. Dr. Jeffay may also address any evidence on the construction of this term that is offered by CAS.
1, 10	"control information"	Plain and ordinary meaning.	"information to configure a multilink PPP connection" <u>Evidence:</u> '801 patent, 11:52-62, 12:29-35. '801 FH, '908 FH, '156 FH, '349 FH, '649 FH. Dr. Jeffay may also address any evidence on the construction of this term that is offered by CAS.

Competitive Access Systems, Inc. v. Oracle Corporation, et. al (1:23-cv-00286-DII)**U.S. Patent No. 8,228,801**

Claim No(s).	Claim Term/Phrase	Plaintiff's Proposed Construction and Identification of Evidence	Defendants' Proposed Construction and Identification of Evidence
1, 10	"wireless interface"	Plain and ordinary meaning.	"combination of hardware with software that enables implementation of wireless communications" <u>Evidence:</u> '801 patent, 2:45-47, 4:10-19, 9:48-51, 10:17-21, 10:25-29, 11:4-20, 12:61-66, 14:21-23, 14:51-54; 15:64-16:3; Figures 1, 6-9. '801 FH, '908 FH, '156 FH, '349 FH. Dr. Jeffay may also address any evidence on the construction of this term that is offered by CAS.

Competitive Access Systems, Inc. v. Oracle Corporation, et. al (1:23-cv-00286-DII)**U.S. Patent No. 10,868,908**

Claim No(s).	Claim Term/Phrase	Plaintiff's Proposed Construction and Identification of Evidence	Defendants' Proposed Construction and Identification of Evidence
4	"first information" / "second information"	Plain and ordinary meaning. Is not indefinite.	Indefinite <u>Evidence:</u> '908 patent, 4:53-61, 7:54-56, 8:4-8, 8:23-26, 8:65-9:3, 9:43-47, 11:50-53, 11:61-64, 12:51-57, 15:27-31, 15:44-53. Defendants may rely on the expert testimony of Kevin Jeffay, Ph.D., as to how one of ordinary skill in the art at the time of the invention, having reviewed the relevant intrinsic and extrinsic evidence would not have understood the meaning and scope of this term with reasonable certainty. In addition, Dr. Jeffay may also address any evidence on the construction of this term that is offered by CAS.
1, 13	"multilink request"	Plain and ordinary meaning, defined as "request relating to a multilink connection." '908 Patent, 12:2-14:9 and Figs. 7-9.	"request to join multilink PPP session" <u>Evidence:</u> '908 patent, 4:20-29, 10:57-14:9, 14:55-63, 16:16-32; Figures 1, 6-9. '908 FH, '801 FH, '649 FH, '156 FH, '349 FH. Dr. Jeffay may also address any evidence on the construction of this term that is offered by CAS. Dictionary definitions at: ORCL_CAS_00156694-00156695; ORCL_CAS_00156711; ORCL_CAS_00156713; ORCL_CAS_00156717;

Competitive Access Systems, Inc. v. Oracle Corporation, et. al (1:23-cv-00286-DII)**U.S. Patent No. 10,868,908**

Claim No(s).	Claim Term/Phrase	Plaintiff's Proposed Construction and Identification of Evidence	Defendants' Proposed Construction and Identification of Evidence
			ORCL_CAS_00156720; ORCL_CAS_00156726; ORCL_CAS_00156727; ORCL_CAS_00156728. RFC 1990: ORCL_CAS_00140529-140552.
1, 3, 6, 13	"multilink session"	Plain and ordinary meaning, defined as "session relating to a multilink connection." '908 Patent, 12:2-13:12 and Figs. 7-9.	"multilink PPP session" <u>Evidence:</u> '908 patent, 4:20-29, 10:57-14:9, 14:55-63, 16:16-32; Figures 1, 6-9. '908 FH, '801 FH, '649 FH, '156 FH, '349 FH. Dr. Jeffay may also address any evidence on the construction of this term that is offered by CAS. Dictionary definitions at: ORCL_CAS_00156694-00156695; ORCL_CAS_00156711; ORCL_CAS_00156713; ORCL_CAS_00156717; ORCL_CAS_00156720; ORCL_CAS_00156721; ORCL_CAS_00156726; ORCL_CAS_00156727; ORCL_CAS_00156728; ORCL_CAS_00156729. RFC 1990: ORCL_CAS_00140529-140552.
5	"wireless interface"	Plain and ordinary meaning.	"combination of hardware with software that enables implementation of wireless communications" <u>Evidence:</u>

Competitive Access Systems, Inc. v. Oracle Corporation, et. al (1:23-cv-00286-DII)**U.S. Patent No. 10,868,908**

Claim No(s).	Claim Term/Phrase	Plaintiff's Proposed Construction and Identification of Evidence	Defendants' Proposed Construction and Identification of Evidence
			'908 patent, 2:51-53, 10:1-4, 10:38-42, 10:46-50, 11:24-41, 13:16-21, 14:46-49, 15:11-14, 16:27-33; Figures 1, 6-9. '908 FH, '801 FH, '156 FH, '349 FH. Dr. Jeffay may also address any evidence on the construction of this term that is offered by CAS.
7, 15	"Wi-Max device"	Plain and ordinary meaning.	"fixed wireless device that operates in accordance with IEEE 802.16-2001: 'Part 16: Air Interface for Fixed Broadband Wireless Access Systems'" <u>Evidence:</u> '908 patent, 11:31-41; Figures 1, 6-9. Dr. Jeffay may also address any evidence on the construction of this term that is offered by CAS. IEEE 802.16-2001 Standard: ORCL_CAS_00157044-00157394.