IN THE UNITED STATES COURT OF FEDERAL CLAIMS

E-NUMERATE SOLUTIONS, INC. and E-NUMERATE, LLC, Plaintiffs, v. THE UNITED STATES OF AMERICA, Defendant.	C.A. No. 19-859-RTH

PLAINTIFFS' SUPPLEMENTAL CLAIM CONSTRUCTION BRIEF

Dated: November 22, 2022

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Table of Contents

Table of Authorities

Cases

I.   INTRODUCTION

Plaintiffs e-Numerate Solutions, Inc., and e-Numerate, LLC (collectively "e-Numerate" or "Plaintiffs") submit this Supplemental Claim Construction Brief pursuant to the Court's Order of November 21, 2022. ECF 104.

e-Numerate's proposed constructions of terms 15A, B and C (the "multiple hierarchical relationships" limitations) and e-Numerate's proposed construction of term 2 (the "report" limitation) embrace the preferred embodiments in the asserted patents. As a result, e-Numerate's proposed constructions are fully in accord with long-standing Federal Circuit precedent that embodiments should be encompassed within claim interpretations absent a compelling reason not to include them.   In contrast, the Government's proposed constructions excludes these embodiments and is in direct contravention of this precedent.

II.   ARGUMENT

Each of the proposed constructions is addressed in turn.

A. Terms 15A, B and C

The Court's proposed preliminary definitions were as follows:

Term Number	Term	Court's Proposed Definition
15A	"multiple hierarchical relationships between two line items"	A line item with more than one type of hierarchical relationship with another line item, conveying information such as dependency on other line items and relation of different line items to their parents, peers, and children. Examples of relationships between two line items include parent-child, siblings, and grandparent-grandchild.
15B	"multiple hierarchical relationships between two line	A line item with more than one type of hierarchical relationship with another line item, conveying information such as dependency on other line items and relation of different line items to their parents, peers,

	items of corresponding numerical values"	and children. Examples of relationships between two line items include parent-child, siblings, and grandparent-grandchild.
15C	"multiple hierarchical relationships between two of the plurality of line items"	A line item of the two or more line items with more than one type of hierarchical relationship with another line item of the two or more line items, conveying information such as dependency on other line items and relation of different line items to their parents, peers, and children. Examples of relationships between two-line items include parent-child, siblings, and grandparent-grandchild.

During the claim construction hearing, there was argument from both sides related to these claim terms and the extent to which any construction <u>may</u> or <u>must</u> include the figures in the respective patents. The parties disagreed on this issue. e-Numerate made clear in its presentation that these terms must be construed to encompass Figure 14A in the '383 and '748 patents and Figure 15 in the '842 patent. These figures are the only embodiments of financial reports contained in the specifications of the patents-in-suit. The patents-in-suit explicitly teach the applicability of the claimed inventions to financial reports. *See, e.g.,* '355 Patent at col. 49, lines 51 – 57 ("RDML permits records to be arranged *hierarchically within a table.* Although not a standard approach for relational tables, this permits *multiple levels of information* to be placed in a single two-dimensional table. Users desire this, for example, when viewing *financial statements*, where a single line item 55 (e.g., "Equipment leasing") may have several sub-components ("Autos," "Trucks," "Office Equipment.")(emphasis supplied)); *see also* '355 Patent at col. 9, lines 44 – 52; col. 11, lines 38 – 48; col. 23, lines 33 – 50; col. 27, line 67 – col. 28, line 6.

The Federal Circuit has repeatedly emphasized that claims should be construed to cover the examples and embodiments disclosed in the specification absent compelling reasons not to

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