

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

E-NUMERATE SOLUTIONS, INC. and E-
NUMERATE, LLC,

Plaintiffs,

v.

THE UNITED STATES OF AMERICA,

Defendant.

No. 19-859 C
Judge Ryan T. Holte

DEFENDANT’S DISCLOSURE OF EXTRINSIC EVIDENCE

Pursuant to the Court’s November 9, 2021 Order (Dkt. No. 64), the United States (“the Government”) identifies the following extrinsic evidence which it may rely upon in support of its proposed constructions for the asserted claims. Copies of the following are being served as part of this exchange or were previously produced.

Technical References

- 1) IEEE 100 The Authoritative Dictionary of IEEE Standards Terms, Seventh Edition, Standards Information Network IEEE Press, 2000.
- 2) Microsoft Computer Dictionary, Fourth Edition, Microsoft Corporation, 1999.
- 3) XML Bible, Elliotte Rusty Harold, IDG Books Worldwide, 1999.¹
- 4) XML Handbook, The, Charles F. Goldfarb and Paul Prescod, Prentice Hall, 1998.²

Patents and Patent Applications

- 5) U.S. Patent Application No. 09/728935

¹ This reference may also constitute intrinsic evidence based on Patentee incorporating it by reference within the Patents-in-Suit.

² Plaintiffs are directed to the pervious production of this reference.

- 6) U.S. Patent Application No. 60/219796
- 7) U.S. Patent No. 5,940,822
- 8) U.S. Patent No. 6,859,217

Declaration

- 9) Declaration of Dr. David Martin dated December 3, 2021

Defendant reserves the right to further rely on prior art which it identified and produced in its Preliminary Disclosure of Invalidity Contentions served on July 6, 2021 and Supplemental Preliminary Disclosure of Invalidity Contentions served on July 26, 2021, and any of the extrinsic evidence identified by Plaintiffs to rebut any arguments that Plaintiffs may assert.

Respectfully submitted,

BRIAN M. BOYNTON
Acting Assistant Attorney General

GARY L. HAUSKEN
Director

Of Counsel:
SCOTT BOLDEN
NELSON KUAN
U.S. Department of Justice

s/ Shahar Harel
SHAHAR HAREL
Trial Attorney
Intellectual Property Section
Commercial Litigation Branch
Civil Division
U.S. Department of Justice
Washington, DC 20530
Shahar.Harel@usdoj.gov
Tel: (202) 305-3075
Fax: (202) 307-0345

Date: December 3, 2021

Attorneys for the Defendant,
the United States of America.

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing was sent by e-mail this 3rd day of December 2021

to:

Sean T. O'Kelly
Gerard M. O'Rourke
O'KELLY & O'ROURKE, LLC
824 N. Market Street, Suite 1001A
Wilmington, DE 19801
302-778-4000
sokelly@okorlaw.com
gorourke@okorlaw.com

Of Counsel:
SCOTT BOLDEN
NELSON KUAN
U.S. Department of Justice

s/ Shahar Harel

SHAHAR HAREL
Trial Attorney
Intellectual Property Section
Commercial Litigation Branch
Civil Division
U.S. Department of Justice
Washington, DC 20530
Shahar.Harel@usdoj.gov
Tel: (202) 305-3075
Fax: (202) 307-0345

Attorney for the Defendant,
the United States of America.

Date: December 3, 2021