IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

YODLEE, INC.,

Plaintiff,

v.

CASHEDGE, INC.,

Defendant.
_____/

No. C 05-01550 SI

CLAIM CONSTRUCTION ORDER

On April 26, 2006, the Court held a claim construction hearing in this case. Having considered the arguments of counsel and the papers submitted, the Court rules as follows.

BACKGROUND

Plaintiff Yodlee, Inc., has brought suit against defendant CashEdge, Inc., alleging infringement of nine patents: United States Patent Nos. 6,199,077 ("the '077 patent"), 6,633,910 (" the '910 patent"), 6,510,451 ("the '451 patent"), 6,802,042 ("the '042 patent"), 6,412,073 ("the '073 patent"), 6,594,766 ("the '766 patent"), 6,317,783 ("the '783 patent"), 6,567,850 ("the '850 patent"), and 6,405,245 ("the '245 patent"). Broadly speaking, the nine patents all deal with systems and methods to deliver personal information culled from multiple Internet sources to one central web site. For example, the technologies at issue allow for an end user to monitor information from several types of accounts held with different financial institutions on one website, without having to individually log into and navigate through each individual website associated with each financial institution with which the user has an account. The parties now seek to have the Court construe a number of claims from these patents.

LEGAL STANDARD

Claim construction is a matter of law. *Markman v. Westview Instr., Inc.*, 517 U.S. 370, 372(1996). Terms contained in claims are "generally given their ordinary and customary meaning." *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005). "[T]he ordinary and customary meaning of a claim term 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." *Id.* In determining the proper construction of a claim, a court begins with the intrinsic evidence of record, consisting of the claim language, the patent specification, and, if in evidence, the prosecution history. *Id* at 1313. "The appropriate starting point . . . is always with the language of the asserted claim itself." *Comark Communications, Inc. v. Harris Corp.*, 156 F.3d 1182, 1186 (Fed. Cir. 1998). "[T]he language of the claim frames and ultimately resolves all issues of claim interpretation." *Abtox, Inc. v. Exitron Corp.*, 122 F.3d 1019, 1023 (Fed. Cir. 1997). In the absence of an express intent to impart a novel meaning to claim terms, an inventor's claim terms take on their ordinary meaning. However, claims are always read in view of the written description. *See Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996).

The written description can provide guidance as to the meaning of the claims, thereby dictating the manner in which the claims are to be construed, even if the guidance is not provided in explicit definitional format. *SciMed Life Systems, Inc. v. Advanced Cardiovascular Systems, Inc.*, 242 F.3d 1337, 1344 (Fed. Cir. 2001). In other words, the specification may define claim terms "by implication" such that the meaning may be "found in or ascertained by a reading of the patent documents." *Vitronics*, 90 F.3d at 1584 n.6. Although claims are interpreted in light of the specification, this "does not mean that everything expressed in the specification must be read into all the claims." *Raytheon Co. v. Roper Corp.*, 724 F.2d 951, 957 (Fed. Cir. 1983). For instance, limitations from a preferred embodiment described in the specification generally should not be read into the claim language. *See Comark*, 156 F.3d at 1187. However, it is a fundamental rule, that "claims must be construed so as to be consistent with the specification." *Phillips*, 415 F.3d at 1316. Therefore, if the specification reveals an intentional disclaimer or disavowal of claim scope, the claims must be read consistent with that limitation. *Id.*

Although not as persuasive as intrinsic evidence, a court may also rely on extrinsic evidence, which "consists of all evidence external to the patent and prosecution history, including expert and

inventor testimony, dictionaries, and learned treatises," to determine the meaning of claim language. *Phillips*, 415 F.3d at 1317. All such extrinsic evidence should be evaluated in light of the intrinsic evidence. *Id.* at 1319.

DISCUSSION

I. Claim Terms From Yodlee Patents

The Court construes the claims from the '077, '910 , '451, '042, '073, and '766 patents as follows.

A. "Gatherer"/"Gathering Software Agents"/"Gathering Cycle" ('077 and '910 Patents)

Generally speaking, the '077 claims a system and method for accessing a number of Internet sites on behalf of an end user, collecting information from those sites, and automatically downloading that information to the end user. The '910 patent is based on the same system, and claims a system and method for alerting end users when the information stored on those sites changes. For example, if a user has two bank accounts and is able to access those accounts from the Internet, the '077 patent describes a way to automatically retrieve the user's account balances from the banks' websites. The '910 patent provides a way of alerting the user when one of his bank account balances falls below a certain level. Both patents use the term "gather" to refer the process of collecting the personal information on the end user's behalf.

1. '077 Patent

"Gatherer" and "gathering software agents" appear in both independent claims (claims 1 and 7) of the '077 patent. Yodlee construes the terms to mean "a software component and/or related data that once processed can be employed to locate and retrieve information from Internet destinations based on user or enterprise request." CashEdge propose that "gatherer" be construed to mean "a summarization agent that combines data such that summary is not just an aggregated restatement of the gathered material, is programmable and is an interactive software application adapted to run on a network

server." The Court finds that Yodlee's construction accurately describes the function of the gatherer. CashEdge's construction imports dependent claim 3 from the '077 patent, which deals with summarization, into claim 1; this would impermissibly render claim 3 superfluous. *See TurboCare Div. of Demag Delaval Turbomachinery Corp. v. General Electric Co.*, 264 F.3d 1111, 1123 (Fed. Cir. 2001).

"Gathering cycle" also appears in both independent claims of the '077 patent. CashEdge advances a construction for "gathering cycle" that would read "a cycle during which summarization agents, that combine data such that the summary is not just an aggregated restatement of the gathered material, gather and return summary information," while Yodlee asserts that this term needs no construction. The dispute over this term is essentially the same as for "gatherer"/"gathering software agent," for which the Court has determined summarization is not a required component. This term need not be construed.

2. '910 Patent

The '910 patent uses the term "gatherer" in independent claim 1. CashEdge asserts that this element is written in means-plus-function form and is subject to 35 U.S.C. § 112(6). The element does not use the term "means," creating a presumption that it is not subject to § 112(6). *Lighting World, Inc. v. Birchwood Lighting, Inc.*, 382 F.3d 1354, 1358 (Fed. Cir. 2004). This presumption can be overcome if it is demonstrated "the claim term fails to recite sufficiently definite structure or else recites function without reciting sufficient structure for performing that function." *Id.* (internal quotation marks omitted). Whether the term brings to mind a particular structure is not dispositive; instead, what is important is whether the term is understood to indicate structure. *Id*. at 1360.

Yodlee has submitted an expert declaration stating that, based upon the use of "gatherer" in the specification, it would have been apparent to someone skilled in the art at the time of this patent that the term "gatherer" referred to a software application. Papakonstantinou Decl. ¶¶ 16-18. The Court does not believe that this is sufficient. The Federal Circuit requires that "*the term* is one that is understood to describe structure, as opposed to a term that is simply a nonce word or a verbal construct that is not recognized as the name of structure." *Lighting World*, 382 F.3d at 1360 (emphasis added). In fact, the

Federal Circuit implied that a "coined term" such as gatherer would be appropriate for means-plus-function analysis. *Id.* ("[T]he term 'detector, although broad, is still structural for purposes of section 112 ¶ 6 because it is not . . . a coined term lacking a clear meaning such as 'widget' or 'ram-a-fram.'") As it is undisputed that "gatherer" is a "coined term lacking clear meaning," the Court finds that the above element is written in means-plus-function form.

When a term is written in means-plus-function form, the claim "shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof." 35 U.S.C. § 112 ¶ 6. Accordingly, claim 1 is limited to the disclosures for "gatherer" in the '910 patent, col. 14, lines 34-44, and the '077 patent, col. 9, lines 54-64.

B. "Gathering Software Agents With at Least One Gatherer Agent Dedicated to Each of the Internet Sites" ('077 Patent)

This term appears in independent claim 1 of the '077 patent. CashEdge argues that this phrase needs no construction once "gathering software agent" and "gatherer" have been construed, while Yodlee advances a construction that would read "in order to effectively locate and retrieve the desired information, a software agent is dedicated to each Internet site. This means an agent containing the necessary site logic or protocols needed to locate and retrieve the desired data from a given site is employed for each site or information provider." Yodlee asserts that this is necessary to make clear that the term "dedicated" does not mean that one gatherer cannot be used for two separate sites if they use the same logic. CashEdge disputes this characterization of the term "dedicated" as being unsupported, and offers an alternate construction that would read "for the gathering software agents, there is at least one gathering agent that is specifically dedicated to each of the Internet sites being accessed." While the term "dedicated" can certainly be read to indicate that each gatherer may only work for one site, the specification indicates otherwise. '077 patent col. 11, lines 55-60. The Court accepts Yodlee's construction.

C. "Extracts Data" ('077 Patent)

"Extracts data" appears in independent claim 1 of the '077 patent. Yodlee seeks to construe the

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