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**UNITED STATES DISTRICT COURT**
**NORTHERN DISTRICT OF CALIFORNIA**
**SAN FRANCISCO DIVISION**

| | |
|---|---|
| PACKET INTELLIGENCE LLC,<br><br>Plaintiff,<br><br>v.<br><br>JUNIPER NETWORKS, INC.,<br><br>Defendant. | Case No. 3:19-cv-04741-WHO<br><br>**JUNIPER'S RESPONSIVE CLAIM CONSTRUCTION BRIEF** |

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I.      INTRODUCTION

The law precludes using claim construction to expand the scope of a patent outside the bounds of the patentee's invention. As the Federal Circuit has explained, claim construction must not "enlarge what is patented beyond what the inventor has described as the invention."[1] This protects the public from a patentee extending its monopoly rights beyond the patent's contributions to the public storehouse of knowledge. Indeed, the Supreme Court has time and again reiterated that "exclusive patent rights are given in exchange for disclosure to the public."[2]

Juniper's proposed constructions here follow these principles, while Packet Intelligence's do not. The term "conversational flow" exemplifies these divergent approaches. The patents differentiate between devices that classify packets of information into a "connection flow," as commonly used in the prior art, and a "conversational flow," as claimed in all five patents-in-suit. For instance, the '099 patent specification states:

> Some prior art packet monitors classify packets into connection flows. The term "connection flow" is commonly used to describe all the packets involved with a single connection. A conversational flow, on the other hand, is the sequence of packets that are exchanged in any direction as a result of an activity—for instance, the running of an application on a server as requested by a client.[3]

Juniper's proposed construction for "conversational flow" maintains this distinction, defining the term to involve linking a group of multiple individual connection flows. Packet Intelligence's proposal, on the other hand, blurs the line between "connection flow" and "conversational flow," such that a "conversational flow" may be a single, individual connection flow, or a group of connection flows. Thus, Packet Intelligence seeks to capture the single connection of a "connection flow," thereby eliminating the unique aspects of "conversational flow" that the specification establishes.

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[1] *Inpro II Licensing, S.A.R.L. v. T-Mobile USA, Inc.*, 450 F.3d 1350, 1355 (Fed. Cir. 2006) (quoting *Network, LLC v. Centraal Corp.*, 242 F.3d 1347, 1352 (Fed. Cir. 2001)).

[2] *E.g.*, *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., Ltd.*, 535 U.S. 722, 736 (2002) (citing *Bonito Boats, Inc. v. Thunder Craft Boats, Inc.*, 489 U.S. 141, 150–51 (1989) ("The federal patent system thus embodies a carefully crafted bargain for encouraging the creation and disclosure of new, useful, and nonobvious advances in technology and design in return for the exclusive right to practice the invention for a period of years.")).

[3] '099 Patent (Dkt. #57-2) at 2:34–40.

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