IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

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Luminati Networks Ltd.,

    Plaintiff,

    v.

Teso LT, UAB, Oxysales, UAB, and Metacluster LT, UAB,

    Defendants.

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Civil Action No.
2:19-cv-00395-JRG

Lead Case

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OXYLABS' RESPONSIVE CLAIM CONSTRUCTION BRIEF

SIEBMAN, FORREST,
BURG & SMITH LLP

MICHAEL C. SMITH

CHARHON CALLAHAN
ROBSON & GARZA, PLLC

STEVEN CALLAHAN
CRAIG TOLLIVER
GEORGE T. "JORDE" SCOTT
MITCHELL SIBLEY

Counsel for Teso LT, UAB, Oxysales, UAB,
and Metacluster LT, UAB

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Defendants Teso LT, UAB, Oxysales, UAB, and Metacluster LT, UAB (collectively, "Oxylabs") file this Responsive Claim Construction Brief:

I.   INTRODUCTION

Luminati's patents-in-suit are plagued by sloppy claim drafting. As discussed below in Section III concerning indefiniteness, Luminati asserts multiple patent claims that purport to rely on antecedent support that simply does not exist. Luminati now asks the Court to redraft the claims to avoid its prosecution mistakes. But these are not errors that the Court can fix—the errors instead preclude a POSA from understanding the claim scope with reasonable certainty. Luminati must bear the burden of its claim drafting, and the Court should not allow Luminati to rush its claims through prosecution, file suit and then hope that the Court will rewrite the claims to save them from indefiniteness. As the Supreme Court has stated, "a patent must be precise enough to afford clear notice of what is claimed, thereby 'appris[ing] the public of what is still open to them.'" *Nautilus, Inc. v. Biosig Instruments, Inc.*, 572 U.S. 898, 909 (2014) (quotations omitted). "The patent drafter"—not the Court and not the defendant—"is in the best position to resolve the ambiguity" in the patent claims. *Id.* at 910 (quotations omitted).

Luminati also improperly attempts to redefine "client" to allegedly require specialized "consumer" device equipment. As Oxylabs explains below in Section II, Luminati's attempted redefinitions are at odds with the patent specification, Luminati's admissions, a POSA's general knowledge, and a prior claim construction order by this Court interpreting "client device" in another Luminati patent. Instead, "client" and "server" are used in their plain and ordinary sense, and therefore refer to computer equipment serving in a standard "client" or "server" role.

II.   DISPUTED CLAIM CONSTRUCTION TERMS

A.   Client Device ('319 and '510 Patents)

Luminati concocts a new definition of "client device"—a "consumer computer"—that

stands in contrast with (i) the specification of the '319 and '510 patents, (ii) Luminati's earlier admissions in this case, (iii) the common understanding of a "client device," and (iv) the Court's construction of "client device" in a prior case between the parties. A POSA[1] would understand, as confirmed by the patent specification, that a "client device" has a plain and ordinary meaning of a device operating in the role of a "client" (as in the client-server context). "Client device" does not refer to any specialized equipment, whether a "consumer computer" or otherwise. And as discussed below, it is not even clear what Luminati means by "consumer" in this context or how Luminati would use that term to alter the disclosure in the patent specification.

First, the patents[2] confirm that "*each communication device may serve as a client, peer, or agent*" in a portion of the specification quoted and emphasized by Luminati on page 11 of its brief.[3] '319 pat. at 4:48-50; Lum. Claim Constr. Brief ("Br.") at 11. Luminati, however, did not emphasize the next sentence of the specification stating that "a *detailed description of a communication device* is provided with regard to the description of FIG. 4." *Id.* at 4:51-53. The corresponding description of Figure 4 describes the "communication device" in detail and confirms that the "communication device" "contains *general components of a computer*" and "may serve as a client, agent, or peer." *Id.* at 5:52-57.

"[T]he communication device 200 includes a processor 202, memory 210, [and] at least one storage device 208 . . ." *Id.* at 5:59-60. The specification also confirms other standard features of the "communication device," including that its memory may include "ROM, hard drive,

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[1]   A person of ordinary skill (POSA) would have at least a bachelor's degree in Computer Science or related field (or equivalent experience), as well as two or more years of experience working with and programming networked computer systems. Freedman Decl., ¶ 18.

[2]   The '319 patent and '510 patent share a common specification. Citations herein are to the '319 patent unless otherwise noted.

[3]   Unless otherwise noted, all emphases in quotations herein have been added.

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