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

BILLJCO, LLC,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. 2:21-CV-00181-JRG
	§	(LEAD CASE)
CISCO SYSTEMS, INC.,	§	
	§	
Defendant.	§	

v.	§	CIVIL ACTION NO. 2:21-CV-00183-JRG
	§	(MEMBER CASE)
HEWLETT PACKARD ENTERPRISE	§	
COMPANY, ARUBA NETWORKS, LLC.,	§	
	§	
Defendants.		

CLAIM CONSTRUCTION MEMORANDUM OPINION AND ORDER

In these consolidated patent cases, Plaintiff BillJCo, LLC, alleges infringement of claims from three patents—U.S. Patents 8,761,804, 10,292,011, and 10,477,994—by Defendants Cisco Systems, Inc., Hewlett Packard Enterprise Co., and Aruba Networks, LLC. Each patent relates to "location based exchanges of data between distributed mobile data processing systems for locational applications." '804 Patent at 1:22–24; *see also* '011 Patent at 38–40; '994 Patent at 1:45–47.

The parties dispute the scope of five terms across the three patents. For each term, Plaintiff argues for a construction of "plain and ordinary meaning," whereas Defendants advance a specific construction. Having considered the parties' briefing, along with arguments of counsel during a February 17, 2022 hearing, the Court resolves the parties' disputes as follows.

I. BACKGROUND

A. U.S. Patent 8,761,804

The '804 Patent relates to "location based exchanges of data between distributed mobile data processing systems for locational applications." '804 Patent at 1:22–24. "Location based exchange" (or LBX) is a coined term, which the patent distinguishes from the more familiar "location based services" (or LBS):

> LBX describes leveraging the distributed nature of connectivity between [mobile data processing systems (MSs)] in lieu of leveraging a common centralized service nature of connectivity between MSs. The line can become blurred between LBS and LBX since the same or similar features and functionality are provided, and in some cases strengths from both may be used. The underlying architectural shift differentiates LBX from LBS for depending less on centralized services, and more on distributed interactions between MSs. LBX provide server-free and server-less location dependent features and functionality.

Id. at 3:65–4:8; *see also id.* at 3:57–59 ("This disclosure introduces a new terminology, system, and method referred to as Location Based eXchanges (LBX)."). "Mobile data processing systems" (or MSs) are simply mobile devices, such as laptops and smartphones. *See id.* at 3:7–17.

In the Background, the '804 Patent identifies several disadvantages of centralized web services—that is, web services that use an intermediary point between clients. For example, with centralized web services, "[r]egardless of the number of threads of processing spread out over hardware and processor platforms, the web service itself can become a bottleneck causing poor performance for timely response, and can cause a large amount of data that must be kept for all connected users and/or systems." *Id.* at 2:1–6. Similarly, centralized web services can give rise to security concerns, given that such a service inherently holds large amounts of user information in a centralized database. *Id.* at 2:43–58.

One way to address these disadvantages is by shifting more of the processing to the mobile devices. As the patent explains:

> Mobile data processing systems can intelligently handle many of their own application requirements without depending on some remote service. Just as two people in a business organization should not need a manager to speak to each other, no two mobile data processing systems should require a service middleman for useful location dependent features and functionality. The knowing of its own location should not be the end of social interaction implementation local to the mobile data processing systems, but rather the starting place for a large number of useful distributed local applications that do not require a service.

'804 Patent at 2:63–3:6.

Problematically, however, many mobile devices cannot be automatically located. *Id.* at 3:17–20. "Conventional methods use directly relative stationary references such as satellites, antennas, etc. to locate MSs. Stationary references are expensive to deploy, and risk obsolescence as new technologies are introduced to the marketplace. Stationary references have finite scope of support for locating MSs." *Id.* at 3:20–25.

To address that problem, the patent suggests "[a] method . . . for enabling users to get location dependent features and functionality through having their mobile locations known, regardless of whether or not their MS is equipped for being located." *Id.* at 3:44–49. The '804 Patent summarizes the disclosure as:

> a distributed system and method for enabling new and useful location dependent features and functionality to mobile data processing systems. Mobile data processing systems interact with each other as peers in communications and interoperability. A mobile data processing system may dynamically take on roles, depending on the environment and capabilities available at a particular time. Reference whereabouts data is appropriately shared between mobile data processing systems to carry out automatic location techniques ensuring mobile data processing systems are kept up to date with their own whereabouts and whereabouts of others, regardless of the freely moving travels of any of the mobile data pro-

cessing systems involved, and the location technologies that may or may not be available when needed. . . .

'804 Patent at [57].

The parties dispute the scope of three terms from the '804 Patent: (1) "application" (which is also at issue with respect to the '994 Patent and '011 Patent); (2) "an application in use at the sending data processing system"; and (3) "identity information for describing an originator identity."

The '804 Patent issued from Application No. 14/033,540. '804 Patent at [21]. The applicant filed the '540 Application as a continuation of Application No. 12/077,041. *Id.* at [63].

B.   U.S. Patents 10,292,011 and 10,477,994

The '011 Patent and '994 Patent are related and share the same disclosure. Like the '804 Patent, both patents claim priority to the '041 Application. '994 Patent at [63]. Moreover, both patents relate to "location based exchanges of data between distributed mobile data processing systems for locational applications." '011 Patent at 1:38–40; *see also* '994 Patent at 1:45–47. Not surprisingly, the Background sections are the same as that of the '804 Patent and describe the same problems. The specification, however, is considerably longer than the '804 Patent (which itself is lengthy).

The abstracts of the two patents are similar:

Mobile data processing Systems (MSs) interact with systems in their vicinity, and with each other, in communications and interoperability. Information transmitted inbound to, transmitted outbound from, is in process at, or is application modified at a mobile data processing system triggers processing of actions in accordance with user configurations, for example to present content to a user. . . .

'011 Patent at [57]; *see also* '994 Patent at [57] (similar).

The parties dispute the scope of three terms from these two patents: "a Bluetooth

communications interface," which only appears in claims of the '994 Patent; "application," which appears in all three patents; and "application context identifier data," which only appears in the '011 Patent.

II.   LEGAL STANDARDS

A.   Generally

"'[T]he claims of a patent define the invention to which the patentee is entitled the right to exclude.'" *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc) (quoting *Innova/Pure-Water, Inc. v. Safari Water Filtration Sys., Inc.*, 381 F.3d 1111, 1115 (Fed. Cir. 2004)). As such, if the parties dispute the scope of the claims, the court must determine their meaning. *See, e.g.*, *Verizon Servs. Corp. v. Vonage Holdings Corp.*, 503 F.3d 1295, 1317 (Fed. Cir. 2007); *see also Markman v. Westview Instruments, Inc.*, 517 U.S. 370, 390 (1996), *aff'g*, 52 F.3d 967, 976 (Fed. Cir. 1995) (en banc).

Claim construction, however, "is not an obligatory exercise in redundancy." *U.S. Surgical Corp. v. Ethicon, Inc.*, 103 F.3d 1554, 1568 (Fed. Cir. 1997). Rather, "[c]laim construction is a matter of [resolving] disputed meanings and technical scope, to clarify and when necessary to explain what the patentee covered by the claims . . . ." *Id.* A court need not "repeat or restate every claim term in order to comply with the ruling that claim construction is for the court." *Id.*

When construing claims, "[t]here is a heavy presumption that claim terms are to be given their ordinary and customary meaning." *Aventis Pharm. Inc. v. Amino Chems. Ltd.*, 715 F.3d 1363, 1373 (Fed. Cir. 2013) (citing *Phillips*, 415 F.3d at 1312–13). Courts must therefore "look to the words of the claims themselves . . . to define the scope of the patented invention." *Id.* (citations omitted). "[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,

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