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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SPEEDTRACK, INC.,
Plaintiff,
v.
AMAZON.COM, INC., et al.,
Defendants.

Case No. 4:09-cv-04479-JSW

**ORDER MODIFYING FINAL CLAIM
CONSTRUCTION AND DENYING
PLAINTIFF SPEEDTRACK INC.’S
MOTION TO PRECLUDE AND TO
STRIKE DEFENDANTS’ NON-
INFRINGEMENT CONTENTIONS**

Re: Dkt. Nos. 388

Now before the Court is Plaintiff SpeedTrack, Inc.’s motion to (1) clarify the Court’s Claim Construction Order, (2) preclude Defendants from introducing arguments to the jury based on their rejected “field” and “value” construction, and (3) strike portions of Defendants’ non-infringement contentions related to the same. (Dkt. No. 388 (“Motion”).) Having considered the parties’ papers, the relevant legal authority, and the arguments made during the hearing held on February 14, 2020, the Court MODIFIES the claim construction for the term “[category descriptions] having no predefined hierarchical relationship” and DENIES Plaintiff’s Motion to preclude and to strike Defendants’ non-infringement contentions.

BACKGROUND

On November 8, 2019, the Court issued a Claim Construction Order construing disputed terms in U.S. Patent No. 5,544,360 (the “’360 Patent”)—the only asserted patent in this case. (Dkt. No. 407 (“Order”).) As part of its constructions, the Court construed the term “[category descriptions] have no predefined hierarchical relationship” as:

The category descriptions have no predefined hierarchical relationship. A hierarchical relationship is a relationship that pertains to hierarchy. A hierarchy is a structure in which components are ranked into levels of subordination; each component has zero, one, or more subordinates; and no component has more than one superordinate component.

1 *Id.* at 5. The parties disagreed about the meaning of this term. Plaintiff SpeedTrack, Inc.
 2 (“SpeedTrack”) urged the construction that the Court ultimately adopted, arguing that it was
 3 supported by the intrinsic evidence and consistent with the constructions used in *Speedtrack, Inc.*
 4 *v. Wal-Mart Stores, Inc.*, No. C 06-7336 PJH, 2008 WL 2491701 (N.D. Cal. June 19, 2008).
 5 Defendants sought a different construction that eliminated the definition of “hierarchy” and
 6 inserted the statement that “[a] data field and its associated values have a predefined hierarchical
 7 relationship.” Defendants argued that prosecution disclaimer prevents SpeedTrack from claiming
 8 category descriptions based on field-and-value relationships. Specifically, Defendants argued that
 9 the patentee had distinguished U.S. Patent No. 5,047,918 (“Schwartz”)—which assigned “file
 10 attributes” (such as “author”) having associated values (such as “Dostoevsky) to files—on the
 11 basis that it involved a hierarchical relationship between fields and values. (*See* Dkt. No. 362-3
 12 (“Prosecution Amendment II”) at 14.) The patentee added the limitation that category descriptions
 13 “hav[e] no predefined hierarchical relationship” to distinguish Schwartz. (*See id.* at 15.)

14 In its Order, the Court did not disagree that prosecution disclaimer applied. Nevertheless,
 15 the Court rejected Defendants’ proposed construction because (1) it introduced the terms “field”
 16 and “value” that are found nowhere in the ’360 Patent and may confuse the jury, (2) it was
 17 overbroad because not all field-and-value relationships were disclaimed, and (3) it unhelpfully
 18 lacked a definition for the term “hierarchy.” (Order at 9:3-13.) Furthermore, SpeedTrack’s
 19 construction appeared to account for the disclaimer because the claims require the category
 20 descriptions to have no predefined relationship to the “list” in the category description table.¹ (*Id.*
 21 at 8:6-17.) If a field and value had a hierarchical relationship, that relationship would presumably
 22 be expressed in the category description table (as shown, for example, in Figure 3 of the ’360
 23 Patent) and be excluded for that reason. Nevertheless, the Court expressly left open the possibility
 24 of noninfringement based on prosecution disclaimer where fields and values are defined
 25 hierarchically outside of a “list” in a category description table. (*Id.* at 8 n.4.)

26
 27 ¹ SpeedTrack itself argued that Defendant’s construction was irrelevant and unnecessary because
 28 other limitations already prevented “category descriptions” from covering field-and-value systems.
 (*See* Dkt. No. 359 (“Pl. Br.”) at 7:25-8:2; Dkt. No. 363 (“Reply”) at 5:22-6:5.)

1 SpeedTrack now moves for clarification of the statements found in the Order regarding
2 prosecution disclaimer. Defendants apparently rely on those statements in their non-infringement
3 contentions to argue that they do not infringe based on prosecution disclaimer. SpeedTrack moves
4 to strike those non-infringement contentions and preclude Defendants from introducing arguments
5 based on prosecution disclaimer to the jury. Because there is an active dispute over claim scope,
6 the Court now considers the issue left open by the Order.

7 ANALYSIS

8 A. Legal Standard

9 The Court has an obligation to “ensure that questions of the scope of the patent claims are
10 not left to the jury.” *Every Penny Counts, Inc. v. American Express Co.*, 563 F.3d 1378, 1383
11 (Fed. Cir. 2009) (citing *O2 Micro Int’l Ltd. v. Beyond Innovation Tech. Co., Ltd.*, 521 F.3d 1351,
12 1361 (Fed. Cir. 2008)). To fulfill this obligation, “the court must see to it that disputes concerning
13 the scope of the patent claims are fully resolved” and assign a “fixed, unambiguous, legally
14 operative meaning to the claim.” *Id.* (quoting *Liquid Dynamics Corp. v. Vaughan Co.*, 355 F.3d
15 1361, 1367 (Fed. Cir. 2004)). Claim construction may take place at any time, and a court may
16 “revisit[] and alter[] its interpretation of the claim terms as its understanding of the technology
17 evolves.” *Jack Guttman, Inc. v Kopykake Enter., Inc.*, 302 F.3d 1352, 1361 (Fed. Cir. 2002).
18 Moreover, a court may amend its claim constructions “to clarify its original intent.” *Utah Med.*
19 *Prods., Inc. v. Graphic Controls Corp.*, 350 F.3d 1376, 1382 (Fed. Cir. 2003).

20 Prosecution disclaimer is an exception to the rule that claim terms have their “customary
21 and ordinary” meaning. *Thorner v. Sony Comp. Entm’t Am. LLC*, 669 F.3d 1362, 1365 (Fed. Cir.
22 2012). “Where an applicant argues that a claim possesses a feature that the prior art does not
23 possess in order to overcome a prior art rejection, the argument may serve to narrow the scope of
24 otherwise broad claim language.” *Seachange Int’l, Inc. v. C-COR, Inc.*, 413 F.3d 1361, 1372-73
25 (Fed. Cir. 2005). The doctrine prevents a patentee from “recapturing through claim interpretation
26 specific meanings disclaimed during prosecution.” *Omega Engineering, Inc. v. Raytek Corp.*, 334
27 F.3d 1314, 1323 (Fed. Cir. 2003). In order to apply, the prosecution disclaimer must be “clear and
28 unmistakable”—vague or ambiguous statements cannot create disclaimer. *Mass. Inst. of Tech. v.*

1 *Shire Pharma., Inc.*, 839 F.3d 1111, 1119 (Fed. Cir. 2016). The “totality of the prosecution
2 history” informs the disavowal inquiry. *Comp. Docking Station Corp. v. Dell, Inc.*, 519 F.3d
3 1366, 1379 (Fed. Cir. 2008). Since the purpose of prosecution disclaimer is to ensure that
4 competitors can rely on the patentee’s representations to the patent office, disclaimer applies if
5 “the sum of the patentees’ statements during prosecution would lead a competitor to believe that
6 the patentee had disavowed coverage.” *Id.*

7 **B. Prosecution Disclaimer Applies to Certain Field-and-Value Systems.**

8 The parties disagree over whether (and how) the patent applicant disclaimed certain
9 meanings during prosecution while distinguishing the Schwartz reference. The Court reviews the
10 Schwartz reference and the relevant prosecution history, and then analyzes the disclaimer issue.

11 **1. Schwartz**

12 Schwartz describes a file management system that assigns “file attributes” (such as
13 “author”) to data files and allows a user to enter associated values (such as “Smith”). (*See*
14 *Schwartz* at Abstract, 4:12-25.) The user may define a new file attribute “whenever the need
15 arises” and enter a new value as a character string or an integer. (*Id.*, 4:26-43.) The
16 attribute/value pairs are stored in a “node record” (a “node” being equivalent to a file), as shown
17 below. (*Id.*, 4:22-25, 11:56-60, 12:29-38, 15:9-16.)

NODE DICTIONARY	
ATTRIBUTE/ VALUE PAIRS	NEXT
EVENT- ACTIONS	PREVIOUS
FIRSTINLINK	
FIRSTOUTLINK	

1 (*Id.*, Fig. 3 (excerpted).) During prosecution, the applicant stated that the file attributes in
2 Schwartz “are the same as conventional fields” and analogized them to “category types” shown in
3 Figure 3 of the ’360 Patent. (Prosecution Amendment II at 14; Dkt. No. 362-5 (“Prosecution
4 Amendment I”) at 13.) The applicant also noted that “category descriptions” in the ’360 Patent
5 are “somewhat similar” to the values that the user assigns to the file attributes. (Prosecution
6 Amendment I at 13.) However, the applicant distinguished Schwartz on multiple grounds.

7 **2. The Prosecution History**

8 During prosecution, the examiner twice rejected the claims of the ’360 Patent application
9 over Schwartz. First, on January 21, 1994, the examiner found that Schwartz anticipated or
10 rendered obvious the claims of the ’360 Patent application. (Dkt. No. 362-4 (“Office Action I”).)
11 In response, the applicant amended the claims to add limitations requiring “pre-defined” category
12 descriptions, among other amendments. (Prosecution Amendment I.) The applicant argued that
13 Schwartz did not meet this limitation because it described assigning “pre-defined attributes” (such
14 as “author”), but not “pre-defined values” (such as “Smith”). (*Id.* at 13.) Put differently, Schwartz
15 allowed the user to freely input values for specific attributes, instead of selecting them from a pre-
16 defined list. By contrast, the ’360 Patent required that “all category descriptions must be pre-
17 defined, so that a user cannot select a value/category description at will.” (*Id.*) This feature
18 provided an advantage over Schwartz because it prevented “proliferation of different descriptors
19 for similar files.” (*Id.*)

20 Second, on August 3, 1994, the examiner issued another rejection over Schwartz.
21 (Prosecution Amendment II at 14.) This time, the applicant amended the claims to add the
22 limitations that (1) the category description list has “a plurality of category descriptions,” (2)
23 “each category description compris[es] a descriptive name,” (3) “the category descriptions hav[e]
24 no predefined hierarchical relationship with such list or each other.” (*Id.* at 2.) The applicant also
25 amended other claims to replace “categories” with “category descriptions.” (*Id.* at 3-12.) In
26 remarks, the applicant argued that Schwartz did not meet these limitations because it “is simply a
27 variation of conventional hierarchical file systems, in which fields/attributes are defined in a first
28 step, and values associated with data files are entered into such fields/attributes in a second step.”

1 (*Id.* at 14.) The applicant noted that “[i]mportantly, there is also a ‘hierarchical’ relationship
2 between values and fields” because “each value MUST correspond to an associated field type.”²
3 (*Id.*) For example, a node record in Schwartz associating file records with attributes might look
4 like the following:³

Field = "Language"

Record #1	FileID #1	{Location}	English	[other values ...]
Record #2	FileID #2	{Location}	French	[other values ...]

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8 (*Id.* at 15.) As shown, “the ‘hierarchical’ relationship between field values and
9 fields/attributes [in Schwartz] means that the term ‘French’ MUST refer to language, and not to
10 any other characteristic of the file (such as food type, culture, travel, etc.).” (*Id.*) Additionally,
11 “the values associated with each field have a pre-defined relationship to each other—they must all
12 be of the same type as the field.” (*Id.*) By contrast, the applicant argued that in the ’360 Patent,
13 “the category description can be directly associated with any file to mean anything that makes
14 sense to the user.” (*Id.* (emphasis in original).) For example, the file information directory might
15 look like the following:

Category Descriptions

FileID #1	{Location}	English, Language, Letter, [N other values ...]
FileID #2	{Location}	French, Bread, [M other values ...]

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19 (*Id.*) At the same time as arguing that Schwartz failed to meet the limitations requiring
20 lack of “hierarchical” relationships, the applicant also distinguished Schwartz on the basis that
21 “category descriptions are not fields.” (*Id.*) As argued, “a field is a rather broad abstraction that is
22 not particularly descriptive of the characteristics of a file.” (*Id.*) By contrast, the invention of the
23 ’360 Patent “is essentially ‘fieldless’” because ‘category descriptions are not fields; they are
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26 ² This hierarchical relationship between fields and values supposedly failed to “impose any
27 constraints on the range of values that may be assigned to an associated field,” reviving the
28 argument that the values in Schwartz are not “pre-defined.” (*Id.* at 14-15.)

³ The illustrations provided in the prosecution history appear to have been drawn by the applicant
and are not found in Schwartz itself. Schwartz shows a node dictionary storing an attribute/value
pair for each node without the use of a rigid table. (Schwartz at 12:29-38, Fig. 3.)

1 directly applied descriptors of files.” (*Id.*) The examiner accepted the applicant’s arguments
2 pertaining to Schwartz and “non-hierarchical categories” and eventually allowed the claims.⁴
3 (Dkt. No. 268-11 (“Office Action II”) at 2.)

4 **3. Analysis**

5 The prosecution history demonstrates clear and unambiguous disavowal of category
6 descriptions based on hierarchical field-and-value systems. On its face, the claim limitation
7 requiring “[category descriptions] having no predefined hierarchical relationship to such list or
8 each other” prevents only hierarchical relationships (1) among category descriptions and (2)
9 between category descriptions and the lists in the category description table. However, during
10 prosecution, the applicant argued that Schwartz failed to meet this limitation because “there is [] a
11 ‘hierarchical’ relationship between values and fields” in the sense that “each value MUST
12 correspond to an associated field type” and cannot refer to “any other characteristic of the file.”
13 (Prosecution Amendment II at 14-15.) The applicant also argued that Schwartz’s system of
14 defining “fields/attributes . . . in a first step” and entering “values associated with data files . . .
15 into such fields/attributes in a second step” represents “a variation of conventional hierarchical file
16 systems,” which did not meet this limitation. (*Id.*) Accordingly, SpeedTrack cannot now claim
17 hierarchical field-and-value pairs as part of the claimed “category descriptions” of the ’360 Patent.

18 The question remains over the precise contours of the disclaimed field-and-value systems.
19 SpeedTrack convincingly argues that not all field-and-value systems are disclaimed. As stated in
20 the remarks supporting disclaimer, although the invention of the ’360 Patent “allows essentially
21 ‘free-form’ association of category descriptions to files without regard to rigid definitions of
22 distinct fields containing values,” at the next level of organization, “some hierarchical
23 relationships are contemplated by the present invention by using category descriptions to
24 categorize a lower level of category descriptions.” (Prosecution Amendment II at 13.) The cited
25 portion of the specification states that “the invention can be applied to manage ‘higher level’
26 category list to manage and access limited portions of the complete category description list.”

27 _____
28 ⁴ The examiner continued to cite Schwartz as a secondary reference in issuing new rejections but
did not cite Schwartz as a primary reference again. (*See* Office Action II at 7-16.)

1 ('360 Patent, 10:1-3.) Moreover, Figure 3 of the '360 Patent shows “category types” used to
 2 organize category descriptions into columns “for the convenience of the user.” (*Id.*, Fig. 3, 8:17-
 3 30.) Thus, while Schwartz’s hierarchical field-and-value pairs are disclaimed, other systems using
 4 “category types” to organize category descriptions for the convenience of the user are allowed.

5 In this respect, the definition of “hierarchy” adopted in this case based on the *Wal-Mart*
 6 construction provides a useful guidepost: “A hierarchy is a structure in which components are
 7 ranked into levels of subordination; each component has zero, one, or more subordinates; and no
 8 component has more than one superordinate component.” The Court finds that this definition
 9 adequately distinguishes the disclaimed field-and-value systems of Schwartz from the seemingly
 10 permissible *ex post facto* organization of category descriptions by category types. First, the
 11 requirement that fields and values are “ranked into levels of subordination” captures the argument
 12 that in Schwartz’s system, “each value MUST correspond to an associated field type.” Under this
 13 definition, category types and descriptions in Figure 3 are not “hierarchical” because the user may
 14 freely move the category descriptions from one column to another—thereby changing the category
 15 type—without affecting the meaning of the category description. (*See* '360 Patent, 8:52-60.) Put
 16 differently, the category descriptions do not *have* to refer to the category type, which are only
 17 there for the convenience of the user. (*Id.*, 8:19-30.) As stated in the prosecution history remarks,
 18 category descriptions in the '360 Patent “mean anything that makes sense to the user,” and Figure
 19 3 is consistent with that requirement. (Prosecution Amendment II at 15 (emphasis in original).)

20 Furthermore, the requirement that “each component has zero, one, or more subordinates”
 21 and “no component has more than one superordinate component” (which—when applied to field-
 22 and-value systems—means that each field has zero or more associated values, and no value has
 23 more than one associated field) properly captures the requirement that each value must correspond
 24 to its associated field and cannot refer to “any other characteristic of the file.”⁵ (*Id.* at 15.)

25
 26 ⁵ Defendants suggest that a value may be associated with more than one field because Schwartz
 27 describes using integers as values. As explained below, prosecution disclaimer is based on the
 28 arguments the applicant made, not the arguments they should have made. *Ajinomoto Co., Inc. v.*
Int’l Trade Comm., 932 F.3d 1342, 1351 (Fed. Cir. 2019). Here, the applicant argued that the
 system in Schwartz is hierarchical because each value “must” refer to one field and cannot refer to
 any other characteristic of the file. Accordingly, the applicant’s statements govern.

1 Finally, the requirement for a “predefined” hierarchical relationship distinguishes Schwartz’s
2 system where “fields/attributes are defined in a first step, and values associated with data files are
3 entered into such fields/attributes in a second step” from category descriptions that are organized
4 by higher-level category descriptions after their creation, consistent with the prosecution
5 history remarks. (*Id.* at 13.)

6 SpeedTrack argues that a different interpretation should apply. In main part, SpeedTrack
7 claims that the applicant distinguished Schwartz not on the basis of field-and-value relationships,
8 but on the basis of the “rigid structure” of the table that relates values to fields. SpeedTrack also
9 argues that Schwartz does not have a category description table.⁶ SpeedTrack is correct that the
10 applicant characterized the invention of the ’360 Patent as “allow[ing] essentially ‘free-form’
11 association of category descriptions to files without regard to rigid definitions of distinct fields
12 containing values.” (Prosecution History II at 13.) SpeedTrack is also correct that the applicant
13 provided illustrations of the node record in Schwartz showing a “rigid” table where each column
14 corresponds to a field, in contrast to the “free-form” file information directory illustration. (*See*
15 *supra* illustrations on p. 6; Prosecution History II at 15.) However, the Court is not convinced that
16 the disclaimer is so limited.

17 As an initial matter, the applicant made the remarks demonstrating disclaimer in the
18 context of an amendment that added limitations to the “category descriptions,” not the file
19 information directory or the category description table. Had the applicant wished to distinguish
20 Schwartz based on the requirement for a “rigid structure,” it could have added limitations related
21 to the file information directory, the category description table, or another “structure.” Instead, the
22 amendment required “category descriptions” to have no predefined hierarchical relationships,
23 which suggests that disclaimer applies regardless of the form in which the hierarchical field-and-
24 value relationship is structured.

25 _____
26 ⁶ In its claim construction brief, SpeedTrack further distinguished Schwartz on the basis that
27 category descriptions are not fields. That argument properly relates to the amendment changing
28 “category” to “category description,” rather than the amendment prohibiting “hierarchical”
relationships. Disclaimer applies to each ground on which the applicant distinguished the prior
art, even if it is more than necessary to overcome the rejection. *See Corp. v. Fiber Composites,*
LLC, 474 F.3d 1361, 1374 (Fed. Cir. 2007).

1 Moreover, SpeedTrack’s interpretation is simply not the argument that the applicant made
 2 to distinguish Schwartz. *See Tech. Props. Ltd. LLC v. Huawei Techs. Co., Ltd.*, 849 F.3d 1349,
 3 1359 (Fed. Cir. 2017) (“[W]e hold patentees to the actual arguments made, not the arguments they
 4 could have made.”). None of the remarks addressing Schwartz concern the structure of the file
 5 information directory, the requirement of columns corresponding to fields, or the lack of a
 6 category description table in Schwartz. Instead, the applicant’s argued that Schwartz had a
 7 “hierarchical” relationship between fields and values that fell outside the scope of the amended
 8 claims. Although the applicant included hypothetical illustrations of Schwartz’s node directory
 9 and the file information directory in the ’360 Patent, each of those pictures is described as an
 10 “example” and no suggestion is made that a hierarchical field-and-value relationship can *only* be
 11 structured in that way.⁷ Accordingly, a competitor reading the prosecution history would be
 12 entitled to believe that Schwartz fails to meet the limitation requiring lack of “predefined
 13 hierarchical relationship[s]” for the reasons stated—because each value in Schwartz “must” refer
 14 to its associated field and that constitutes an impermissible “hierarchical” relationship.

15 SpeedTrack next argues that a construction barring hierarchical field-and-value systems
 16 would exclude the preferred embodiment shown in Figure 3. As explained above, the relationship
 17 between category types and category descriptions in Figure 3 is not “hierarchical” because the
 18 category descriptions do not *have* to refer to the category type, but may be changed by the user to
 19 refer to other category types. SpeedTrack highlights the three-digit numbers shown alongside
 20 category descriptions in Figure 3 and argues that because the first digit indicates the category type,
 21 each category description “must” refer to that category type. (*See* ’360 Patent, Fig. 3, 5:11-13.)
 22 There are good reasons to think these numbers do not indicate a strict relationship between
 23 category types and descriptions. As an initial matter, the specification is clear that the numbers
 24 listed next to category descriptions in Figure 3 are a “unique identifier,” not the category

25 _____
 26 ⁷ Of course, if a node directory had the structure shown in the illustration, it would presumably
 27 also have a disclaimed hierarchical relationship between fields and values. But fields and values
 28 may be hierarchically associated in a different implementation as well. For example, Schwartz
 itself uses a node dictionary, not a table, to associate files with hierarchical field/value pairs. (*See*
 Schwartz at Fig. 3.)

1 description itself. (’360 Patent, 5:11-15 (“[E]ach category description is preferably associated
2 with a unique identifier . . . used internally to manage categories.”).) The identifier is used for
3 internal management purposes and is not an essential feature of the invention. (*Id.*, 5:13-20.) Nor
4 is it essential to change the first digit of the identifier when the category type changes. (*Id.*, 5:23-
5 27.) Moreover, as Defendants point out, the specification did not change when the applicant
6 added the limitation that “[category descriptions] hav[e] no predefined hierarchical relationship,”
7 which makes it plausible that certain optional features described in the specification do not
8 ultimately fall within the scope of the claims. Thus, the better interpretation is that the unique
9 identifier helps with internal management of category descriptions, but does not restrict their
10 meaning to particular category types.

11 SpeedTrack next cites a reexamination proceeding where the examiner found that U.S.
12 Patent No. 4,879,648 to Cochran (“Cochran”) anticipates claim 1—including the limitation
13 requiring lack of “predefined hierarchical relationship[s]” among category descriptions—even
14 though it shows an apparently hierarchical field-and-value system. (*See* Dkt. No. 411-2
15 (“Reexam. Action”) at 6; Dkt No. 411-3 (Cochran) at Fig. 1b, 6:8-43.) Reexamination
16 proceedings may provide evidence for claim construction by demonstrating the patentee’s
17 understanding of the terms. *See, e.g., InTouch Techs., Inc. v. VGO Comms., Inc.*, 751 F.3d 1327,
18 1341-42 (Fed. Cir. 2014). *But see* U.S.P.T.O., Manual of Patent Examining Procedure (“MPEP”)
19 § 2111 (noting that the claim construction standard differs in examination proceedings compared
20 to litigation). In this instance, however, SpeedTrack does not cite any substantive claim
21 interpretation. Instead, the party requesting reexamination urged the examiner to adopt the
22 construction used in the *Wal-Mart* litigation, arguing that although it disagreed with the
23 construction, it wanted to establish invalidity using “the broad claim interpretations relied upon by
24 the patent owner.” (Dkt. No. 411-1 (“Reexam. Request”) at 9.) Accordingly, the Court cannot
25 conclude that the reexamination record provides any fresh understanding for claim construction, as
26 it appears to simply apply the constructions used in the *Wal-Mart* litigation.

27 SpeedTrack last argues that introducing the terms “field” and “value” to the construction
28 would lead to a mini-trial over the meaning of those terms. The Court thinks that this outcome can

1 be avoided through proper trial management and motions in *limine*. As used in the construction,
2 the terms “field” and “value” mean nothing more complicated than “a category” and “an example
3 of that category” (e.g., “language” and “French”). Accordingly, the parties are advised to limit
4 their arguments over nomenclature and focus instead on whether the relationship between such
5 categories and category descriptions is “predefined” and “hierarchical.”

6 Accordingly, the Court MODIFIES the construction of “[category descriptions] having no
7 predefined hierarchical relationship” to:

8 The category descriptions have no predefined hierarchical relationship. A hierarchical
9 relationship is a relationship that pertains to hierarchy. A hierarchy is a structure in which
10 components are ranked into levels of subordination; each component has zero, one, or
11 more subordinates; and no component has more than one superordinate component.

12 Category descriptions based on predefined hierarchical field-and-value relationships are
13 disclaimed. “Predefined” means that a field is defined as a first step and a value associated
14 with data files is entered into the field as a second step. “Hierarchical relationship” has the
15 meaning stated above. A field and value are ranked into levels of subordination if the field
16 is a higher-order description that restricts the possible meaning of the value, such that the
17 value must refer to the field. To be hierarchical, each field must have zero, one, or more
18 associated values, and each value must have at most one associated field.”

19 The Court has reviewed Defendants’ non-infringement contentions and finds them broadly
20 consistent with the scope of the prosecution disclaimer stated in the Order and incorporated in the
21 final claim construction here. Accordingly, the Court DENIES SpeedTrack’s motion to strike
22 Defendants’ non-infringement contentions and to prevent them from presenting arguments based
23 on disclaimed field-and-value systems to the jury.⁸

24 **CONCLUSION**

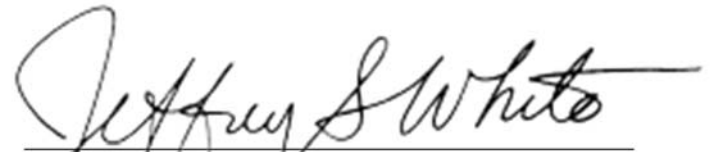
25 For the reasons stated above, the Court DENIES SpeedTrack’s motion to strike
26 Defendants’ non-infringement contentions and to preclude Defendants from raising arguments to
27 the jury regarding disclaimed field-and-value systems. The Court further MODIFIES the final
28 claim construction as stated in this Order.

⁸ SpeedTrack and the Defendants each request to file their infringement and non-infringement contentions under seal. (Dkt. Nos. 387, 394.) The material sought to be sealed relate to confidential business information concerning the operation of Defendants’ products. Accordingly, the Court GRANTS the motions to seal.

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IT IS SO ORDERED.

Dated: February 26, 2020



JEFFREY S. WHITE
United States District Judge