

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

CLOUD BYTE LLC,

Plaintiff,

v.

DELL INC. and DELL TECHNOLOGIES,
INC.,

Defendants.

Case No.: 2:24-cv-00637-JRG

**PLAINTIFF CLOUD BYTE LLC'S P.R. 4-2 DISCLOSURE OF PROPOSED CLAIM
CONSTRUCTIONS AND EXTRINSIC EVIDENCE**

Pursuant to P.R. 4-2 of the Local Patent Rules of the Eastern District of Texas and the Second Amended Docket Control Order governing this action (Dkt. 94), Cloud Byte LLC (“Cloud Byte” or “Plaintiff”) hereby provides in Exhibit A its preliminary constructions of claim terms, phrases, and/or clauses for the following patents (collectively, “Asserted Patents”) and claims (collectively, “Asserted Claims”) identified as asserted in Cloud Byte’s November 21, 2024 Infringement Contentions:

- U.S. Patent No. 7,739,544 (“the ’544 patent”) – claims 1-9, 11-20, 22;
- U.S. Patent No. 9,482,632 (“the ’632 patent”) – claims 1, 3, 5-9;
- U.S. Patent No. 9,560,177 (“the ’177 patent”) – claims 1-20;
- U.S. Patent No. 9,629,265 (“the ’265 patent”) – claims 1-8;
- U.S. Patent No. 9,651,320 (“the ’320 patent”) – claims 1-8;
- U.S. Patent No. 9,900,249 (“the ’249 Patent”) – claims 1-27; and
- U.S. Patent No. 10,628,273 (“the ’273 Patent”) – claims 1-21.

Cloud Byte is also providing a preliminary identification of extrinsic evidence that Cloud Byte contends supports its proposed claim constructions in Exhibit A. The claim terms, phrases, and/or clauses are identified in no particular order, and the order in which they are identified should not be taken as an indication of relative “importance.” Any further occurrence of a listed claim term, phrase, and/or clause is intended to receive the same construction as the listed term, phrase, and/or clause, regardless of whether the later occurrence is also listed in Exhibit A.

Discovery is in progress, Cloud Byte’s investigation is still ongoing, and Dell has refused to participate in any conferences with Cloud Byte regarding claim construction. Accordingly, Cloud Byte provides these constructions and extrinsic evidence based on its current knowledge and reserves the right to amend, modify, or supplement its constructions and/or extrinsic evidence as necessary based on further discovery and understanding of Dell’s positions. Cloud

Byte reserves the right to amend or supplement its identification of proposed terms and claim elements for construction, its proposed constructions, and/or extrinsic evidence in the event it obtains or discerns additional information through further investigation, discovery, or disclosure from Dell or from third parties. In the event Dell later attempts to further amend or supplement its invalidity contentions, Cloud Byte reserves the right to propose additional claim terms and elements for construction, to modify its proposed constructions, and/or identify additional extrinsic evidence. Cloud Byte further anticipates that this list may be modified after considering Dell's list of proposed constructions and/or extrinsic evidence and participating in conferences with Dell regarding the same.

Cloud Byte reserves the right to rely on percipient and expert witness testimony regarding any terms proposed to be construed, including terms that Dell may contend to be indefinite. Cloud Byte also reserves the right to cite additional extrinsic evidence, including dictionary definitions, citations to learned treatises and prior art, and testimony of percipient and expert witnesses, to rebut the proposed constructions of Dell. Cloud Byte also reserves the right to put forth expert testimony in response to any expert testimony Dell may offer in support of its proposed constructions. Cloud Byte also reserves the right to rely on extrinsic and intrinsic evidence cited by Dell in its claim construction disclosure.

Pursuant to P.R. 4-2(c), Cloud Byte is prepared to meet and confer with Dell at a mutually agreeable time for the purposes of narrowing the issues and finalizing preparation of a Joint Claim Construction and Prehearing Statement.

Dated: July 7, 2025

Respectfully submitted,

/s/ Yury Kapgan

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CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Civil Procedure, I hereby certify that, on July 7, 2025, all counsel of record who have appeared in this case are being served with a copy of the foregoing via email.

DATED: July 7, 2025

/s/ Mike Trombetta
Mike Trombetta

EXHIBIT A

U.S. Patent No. 9,651,320

Claim Term	Claim Terms and Phrases	Proposed Construction	Extrinsic Evidence
1.	<p>“a declination index value calculation unit”</p> <p>(claims 1, 7, 8)</p>	<p>No construction necessary; plain and ordinary meaning</p>	<p>Testimony of Dr. Paul Min will show that a POSITA would understand, and would have understood at the time of the invention, that the term “a declination index value calculation unit” in the context of the ’320 patent means its plain and ordinary meaning.</p> <p>Index:</p> <p>“1. a list of items in a computer memory, usually arranged alphabetically 2. the address to be used that is the result of an offset value added to a start location. indexed addressing ■ <i>verb</i> to put marks against items so that they will be selected and sorted to form an index”</p> <p>Bloomsbury Dictionary of Computing, 5th Edition (2004).</p> <p>“A list of values of some particular data item contained in a record, enabling it to be retrieved more rapidly than by simple serial search. For example, a subscript indexes a particular element of an array.”</p> <p>Oxford Dictionary of Computing, 6th Edition (2008).</p> <p>Unit:</p> <p>“1. the smallest element 2. a single machine, possibly with many different parts”</p> <p>Bloomsbury Dictionary of Computing, 5th Edition (2004).</p>

Claim Term	Claim Terms and Phrases	Proposed Construction	Extrinsic Evidence
			<p>“1. an individual thing or person regarded as single and complete but which can also form an individual component of a larger or more complex whole: <i>the family unit</i> <i>large areas of land made up of smaller units</i> <i>the sentence as a unit of grammar</i>. a device that has a specified function, esp. one forming part of a complex mechanism: <i>the gearbox and transmission unit</i>. a piece of furniture or equipment for fitting with others like it or made of complementary parts: <i>a sink unit</i>. a self-contained section of accommodations in a larger building or group of buildings: <i>one and two-bedroom units</i>. a part of an institution such as a hospital having a special function: <i>the intensive care unit</i>. a subdivision of a larger military grouping: <i>he returned to Germany with his unit</i>. an amount of educational instruction, typically determined by the number of hours spent in class: <i>students take three compulsory core units</i>. an item manufactured: as modifier <i>unit cost</i>. a police car: <i>he eased into his unit and flicked the siren on</i>. 2. a quantity chosen as a standard in terms of which other quantities maybe expressed: a unit of measurement fifty units of electricity. 3 the number one. (units) the digit before' the decimal point decimal notation, representing an integer less than ten.”</p> <p>New Oxford American Dictionary, 3d. edition (2010).</p> <p>“n. 1. One considered to constitute part of a whole. 2. An exact quantity used as a standard of measurement. 3. Something that performs a particular function, as in a machine or system. 4. The number 1.”</p> <p>Webster’s II Dictionary, 3rd Edition (2005).</p> <p>Value:</p>

Claim Term	Claim Terms and Phrases	Proposed Construction	Extrinsic Evidence
			<p>“what something is worth, either in money or as a quantity Bloomsbury Dictionary of Computing, 5th Edition (2004).</p> <p>“the numerical amount denoted by an algebraic term; a magnitude, quantity, or number: <i>the mean value of x an accurate value for the mass of Venus.</i>” New Oxford American Dictionary, 3d. edition (2010).</p> <p>“<i>Math.</i> A calculated or assigned numerical quantity.” Webster’s II Dictionary, 3rd Edition (2005).</p> <p>Calculation: “a mathematical determination of the size or number of something: <i>finding ways of saving money involves complicated calculations calculation of depreciation.</i> (often calculations) an assessment of the risks, possibilities, or effects of a situation or course of action: <i>decisions are shaped by political calculations.</i>” New Oxford American Dictionary, 3d. edition (2010).</p> <p>“1. The act, process or result of calculating. 2. Deliberation: foresight.” Webster’s II Dictionary, 3rd Edition (2005).</p>

Claim Term	Claim Terms and Phrases	Proposed Construction	Extrinsic Evidence
			<p>Declination:</p> <p>“(typically of something regarded as good) become smaller, fewer, or less; decrease: <i>the birth rate continued to decline</i>. Diminish in strength or quality; deteriorate: <i>her health began to decline</i> (as adj. declining) <i>the victims of declining educational standards</i>. . . .state the forms of (a nouns., pronoun, or adjective) corresponding to cases, number, and gender. n. a gradual and continuous loss of strength, numbers, quality, or value: <i>a serious decline in bird numbers</i> <i>a civilization in decline</i>. <i>archaic</i> the gradual setting of the sun. <i>archaic</i> any disease in which bodily strength gradually fails, esp. tuberculosis.”</p> <p>New Oxford American Dictionary, 3d. edition (2010).</p>

U.S. Patent No. 7,739,544

Claim Term	Claim Terms and Phrases	Proposed Construction	Extrinsic Evidence
2.	<p>“means for rebuilding data on the replacement disk drive from the backup storage device through the rebuild module while simultaneously providing normal read/write access to the disk drives that have not failed through the RAID module”</p> <p>(claim 1)</p>	<p>Function: “rebuilding data on the replacement disk drive from the backup storage device through the rebuild module while simultaneously providing normal read/write access to the disk drives that have not failed through the RAID module”</p> <p>Structure: disk access bus/switch 18 providing the RAID module and the rebuild module parallel access to the disk array and replacement disk, as described in 3:33-42, 4:29-52, 5:10-32, 9:9-19, and equivalents thereof</p>	<p>Testimony of Dr. Paul Min will show that a POSITA would understand, and would have understood at the time of the invention, that the term “means for rebuilding data on the replacement disk drive from the backup storage device through the rebuild module while simultaneously providing normal read/write access to the disk drives that have not failed through the RAID module” in the context of the ’544 patent refers to a structure of “disk access bus/switch 18 providing the RAID module and the rebuild module parallel access to the disk array and replacement disk, as described in 3:33-42, 4:29-52, 5:10-32, 9:9-19, and equivalents thereof” with a function of “rebuilding data on the replacement disk drive from the backup storage device through the rebuild module while simultaneously providing normal read/write access to the disk drives that have not failed through the RAID module”.</p>
3.	<p>“backup storage device”</p> <p>(claims 1, 13)</p>	<p>No construction necessary; plain and ordinary meaning</p>	<p>Testimony of Dr. Paul Min will show that a POSITA would understand, and would have understood at the time of the invention, that the term “backup storage device” in the context of the ’544 patent means its plain and ordinary meaning.</p> <p>Backup:</p> <p>“1 a : one that serves as a substitute or support <a ~ plan> b : musical accompaniment 2 : an accumulation caused by a stoppage in the flow <traffic ~> 3 : the act or an instance of backing up a computer’s hard disk”</p>

Claim Term	Claim Terms and Phrases	Proposed Construction	Extrinsic Evidence
			<p>Merriam-Webster’s Collegiate Dictionary, 10th Edition (2002).</p> <p>Storage:</p> <p>“<i>noun</i> memory or the part of a computer system in which data or programs are kept for further use”</p> <p>Bloomsbury Dictionary of Computing, 5th Edition (2004).</p> <p>Storage device:</p> <p>“any device which can store data and then allow it to retrieved when required, e.g., a hard disk, compact disc, and RAM”</p> <p>Bloomsbury Dictionary of Computing, 5th Edition (2004).</p>

U.S. Patent No. 10,628,273

Claim Term	Claim Terms and Phrases	Proposed Construction	Extrinsic Evidence
4.	<p>“standby system”</p> <p>(claims 1, 2, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21)</p>	<p>No construction necessary; plain and ordinary meaning</p>	<p>Testimony of Dr. Paul Min will show that a POSITA would understand, and would have understood at the time of the invention, that the term “standby system” in the context of the ’273 patent means its plain and ordinary meaning.</p> <p>Standby:</p> <p>“<i>adjective</i> used to describe a device or program that is ready for use in case of failure ■ <i>noun</i> such a device or program”</p> <p>Bloomsbury Dictionary of Computing, 5th Edition (2004).</p> <p>“n. (pl. standbys) readiness for duty or immediate deployment: <i>buses were placed on standby for the trip to Washington.</i> ■ the state of waiting to secure an unreserved place for a journey or performance, allocated on the basis of earliest availability: <i>passengers were obliged to go on standby.</i> ■ a person waiting to secure such a place. ■ a person or thing ready to be deployed immediately, esp. if needed as backup in an emergency: <i>a generator was kept as a standby in case of power failure</i> [[as modifier] <i>a standby rescue vessel.</i> ■ an operational mode of an electrical appliance in which the power is switched on but the appliance is not actually functioning.”</p> <p>New Oxford American Dictionary, 3d. edition (2010).</p>
5.	<p>“a controller that imposes a processing restriction on the first computer of the active system and then issue an instruction to the standby system” / “a</p>	<p>“a controller that imposes a processing restriction on the first computer of the active system and then issues an instruction to the standby system” / “a control process that imposes a processing restriction on the active system and then issues an</p>	

Claim Term	Claim Terms and Phrases	Proposed Construction	Extrinsic Evidence
	<p>control process that imposes a processing restriction on the active system and then issue an instruction to the standby system”</p> <p>(claims 7, 10)</p>	<p>instruction to the standby system”</p>	
6.	<p>“the standby system is able to perform at least scale-down of scale-up and the scale-down”</p> <p>(claim 10)</p>	<p>“the standby system is able to perform at least scale-down out of scale-up and scale-down”</p>	
7.	<p>“a standby system of the redundant system being able to perform at least scale-down, the scaling control method; comprising:”</p> <p>(claim 17)</p>	<p>“a standby system of the redundant system being able to perform at least scale-down, the scaling control method comprising:”</p>	
8.	<p>“the standby system, responsive to the instructions, in case of performing the scale-down”</p>	<p>“the standby system, responsive to the instruction, in case of performing the scale-down”</p>	

Claim Term	Claim Terms and Phrases	Proposed Construction	Extrinsic Evidence
	(claim 18)		

U.S. Patent No. 9,482,632

Claim Term	Claim Terms and Phrases	Proposed Construction	Extrinsic Evidence
9.	<p>“determine that an abnormality is occurring”</p> <p>(claims 1, 8, 9)</p>	<p>No construction necessary; plain and ordinary meaning</p>	<p>Testimony of Dr. Paul Min will show that a POSITA would understand, and would have understood at the time of the invention, that the term “determine that an abnormality is occurring” in the context of the ’632 patent means its plain and ordinary meaning.</p> <p>Abnormality:</p> <p>“ab-nor-mal /abnormal/ ► adj. deviating from what is normal or usual, typically in a way that is undesirable or worrying: <i>the illness is recognizable from the patient’s abnormal behavior.</i>”</p> <p>New Oxford American Dictionary, 3d. edition (2010).</p> <p>“abnormal (ab-ndr'mal) >adj. Not typical or normal; deviant. —ab'nor-mal'i-ty (ab'normal'i-te) n.”</p> <p>Am. Heritage Dictionary, 5th edition (2012).</p> <p>“ab-nor-mal (ab-nor'mal) adj. Not normal: irregular. * <i>syns</i>: aberrant, anomalous, ATYPICAL, DEVIANT, PRETERNATURAL, UNNATURAL—ab'nor-mal'i-ty (-mal'i-te) n.”</p> <p>Webster’s II Dictionary, 3rd Edition (2005).</p>

U.S. Patent No. 9,560,177

Claim Term	Claim Terms and Phrases	Proposed Construction	Extrinsic Evidence
10.	“A non-transitory recording medium recording a program which when executed causes a switch to perform a method, the method comprising:” (claim 19)	No construction necessary; Preamble not limiting	Testimony of Dr. Paul Min will show that a POSITA would understand, and would have understood at the time of the invention, that the preamble “A non-transitory recording medium recording a program which when executed causes a switch to perform a method, the method comprising:” in the context of the ’177 patent is not limiting.

U.S. Patent No. 9,900,249

Claim Term	Claim Terms and Phrases	Proposed Construction	Extrinsic Evidence
11.	<p>“remove path or link information header”</p> <p>(claims 1, 6, 11, 16, 21)</p>	<p>No construction necessary; plain and ordinary meaning</p>	<p>Testimony of Dr. Paul Min will show that a POSITA would understand, and would have understood at the time of the invention, that the term “remove path or link information header” in the context of the ’249 patent means its plain and ordinary meaning.</p> <p>Header:</p> <p>“header /ˈhedər/ <i>noun</i> 1. (<i>in a local area network</i>) a packet of data that is sent before a transmission to provide information on destination and routing 2. information at the beginning of a list of data relating to the rest of the data 3. a section of words at the top of a page of a document, giving e.g., the title, author’s name or page number.”</p> <p>Bloomsbury Dictionary of Computing, 5th Edition (2004).</p> <p>“Some coded information that precedes a more general collection of data and gives details about it. The header of a data-structure representation is logically distinct from the data elements themselves and may serve several purposes:</p> <p>(a) to hold global information about the whole structure, e.g. list length, array index bounds;</p> <p>(b) to represent an empty structure;</p> <p>(c) to provide links into the structure, e.g. pointers to first and last nodes in a list;</p> <p>(d) to represent the entire structure in any other data structures of which it may be a part.</p> <p>In networking, the header (or head) of a cell or packet is the part that holds routing and control information used to control the passage of the cell or packet</p>

Claim Term	Claim Terms and Phrases	Proposed Construction	Extrinsic Evidence
			<p>across a network.”</p> <p>Oxford Dictionary of Computing, 6th Edition (2008).</p> <p>“header 1. The portion of a data block, cell, frame, or packet that precedes the text field or payload and provides information such as the source address and destination address. The header often includes synchronization bits that serve to synchronize the operations of the transmit and receive devices across the link. Certain data protocols also use fields in the header to identify the length of the text field and the type of data, to indicate the level of tolerance for delay or loss during network transit, and any optional headers that might follow. For example, an Internet Protocol (IP) header might indicate that a Transmission Control Protocol (TCP) header follows. See also <i>block, cell, data format</i> (illustration), <i>frame, packet, payload, text field</i>, and <i>trailer</i>. 2. The user header includes user-definable information such as system access (password), organization or department ID, operator ID, terminal ID, database or application ID, destination address, message sequence number, date/time ID, and message priority.”</p> <p>Webster’s New World Telecom Dictionary (2008).</p> <p>Remove:</p> <p>re-move (ri-mdbv') v. -moved, -mov-ing. 1. To move from a position occupied <removed the dishes> 2. To take from one’s • person: doff. 3. To take away: eliminate. 4. To dismiss from office. 5. To change one’s residence or place of business : move. —n. 1. An act of removing. 2. Distance or degree of separation <at a safe remove from the blast> —re-mov'a-ble adj. —re-mov'a-bly adv. —re-mov'al n.</p> <p>Webster’s II Dictionary, 3rd Edition (2005).</p>

Claim Term	Claim Terms and Phrases	Proposed Construction	Extrinsic Evidence
12.	<p>“a second unit configured send information elements to a packet forwarding node which is capable of receiving an incoming packet including a plurality of identifiers, determining a direction to forward. the incoming packet, determining whether to forward to an external network, adding to path or link information when the incoming packet is not forwarded to the external network, removing path or link information header when the incoming packet is forwarded to the external network, and forwarding the incoming packet by using a path or link, that corresponds to an identifier from among the plurality</p>	<p>“a second unit configured to send information elements to a packet forwarding node which is capable of receiving an incoming packet including a plurality of identifiers, determining a direction to forward. the incoming packet, determining whether to forward to an external network, adding to path or link information when the incoming packet is not forwarded to the external network, removing path or link information header when the incoming packet is forwarded to the external network, and forwarding the incoming packet by using a path or link, that corresponds to an identifier from among the plurality of identifiers.”</p>	

Claim Term	Claim Terms and Phrases	Proposed Construction	Extrinsic Evidence
	<p>of identifiers.”</p> <p>(claim 21)</p>		
13.	<p>“forwards the packet based on the identifier which uniquely identifies the link within the packet forwarding node”</p> <p>(claim 14)</p>	<p>“forwards the packet based on the identifier which uniquely identifies the link within the packet forwarding node”</p>	
14.	<p>“based on the identifier included the received incoming packet from among the plurality of the identifiers”</p> <p>(claim 27)</p>	<p>“based on the identifier included in the received incoming packet from among the plurality of the identifiers”</p>	

U.S. Patent No. 9,629,265

Claim Term	Claim Terms and Phrases	Proposed Construction	Extrinsic Evidence
15.	“close to the front face” (claim 1)	No construction necessary; plain and ordinary meaning	Testimony of Dr. Paul Min will show that a POSITA would understand, and would have understood at the time of the invention, that the term “close to the front face” in the context of the ’265 patent means its plain and ordinary meaning. Close: “a short distance away or apart in space or time” New Oxford American Dictionary, 3d. edition (2010). “Being near in space, time, or relation” Am. Heritage Dictionary, 5th edition (2012).