

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CALLWAVE COMMUNICATIONS,
LLC,

Plaintiff,

v.

AT&T MOBILITY, LLC, and GOOGLE
INC.,

Defendants.

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) C.A. No. 12-cv-1701-RGA
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CALLWAVE COMMUNICATIONS,
LLC,

Plaintiff,

v.

SPRINT SPECTRUM L.P., SPRINT
COMMUNICATIONS COMPANY L.P.,
and GOOGLE INC.,

Defendants.

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) C.A. No. 12-cv-1702-RGA
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CALLWAVE COMMUNICATIONS,
LLC,

Plaintiff,

v.

T-MOBILE USA INC., and GOOGLE
INC.,

Defendants.

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) C.A. No. 12-cv-1703-RGA
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CALLWAVE COMMUNICATIONS,
LLC,

Plaintiff,

v.

VERIZON SERVICES CORP., CELLCO
PARTNERSHIP, D/B/A VERIZON
WIRELESS, and GOOGLE INC.,

Defendants.

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) C.A. No. 12-cv-1704-RGA
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CALLWAVE COMMUNICATIONS,
LLC,

Plaintiff,

v.

AT&T MOBILITY, LLC, BLACKBERRY
LTD, and BLACKBERRY CORP.

Defendants.

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) C.A. No. 12-cv-1788-RGA
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**DECLARATION OF DAVID KOTZ, PH.D. IN SUPPORT OF CALLWAVE
COMMUNICATIONS, LLC'S OPENING CLAIM CONSTRUCTION BRIEF**

I, David Kotz, Ph.D. do hereby declare as follows:

I. INTRODUCTION

1. I am the Champion International Professor in the Department of Computer Science at Dartmouth College in Hanover, New Hampshire. My business address is 6211 Sudikoff Laboratory, Hanover, New Hampshire 03755-3510. I am over eighteen years of age, and I would otherwise be competent to testify as to the matters set forth herein if I am called upon to do so.

2. I have been retained by Callwave Communications, LLC (“Callwave”) to provide expert testimony in the above captioned matters. In particular, I have been asked to provide my expert opinions on the proper constructions of claim terms in U.S. Patent Number 6,771,970 (“the ‘970 Patent”) and the understanding that a person of ordinary skill in the art at the time of the invention claimed in the ‘970 Patent would have had with respect to those terms. I am being compensated at the rate of \$650 per hour.

II. BACKGROUND AND EXPERIENCE

3. My background and experiences that qualify me as an expert in this case are set forth in my curriculum vitae attached as Appendix A.

III. MATERIALS REVIEWED

4. In performing the analysis that is the subject of this Declaration, I have reviewed the ‘970 Patent and its prosecution history. I have also reviewed the joint claim construction table and the relevant portions of the associated joint appendix that the parties filed with the Court. A complete list of the materials I have reviewed is attached as Appendix B.

IV. UNDERSTANDING OF THE LAW TO BE APPLIED TO INTERPRET CLAIMS

5. In formulating my opinions and conclusions in this declaration, I have been provided with an understanding of some of the prevailing principles of United States patent law that govern the issues of patent claim interpretation applicable to my declaration.

V. LEVEL OF ORDINARY SKILL IN THE ART

6. It is my understanding that my analysis of the interpretation of a claim term must be undertaken from the perspective of what would have been known or understood by a person having ordinary skill in the art at the time of the invention.

7. I have been informed by counsel for Callwave that the date of the invention of the '970 Patent is not later than October 4, 1999, which is the filing date of provisional application number 60/157,643 from which the '970 Patent relates.

8. A person of ordinary skill in the art would have at least an undergraduate degree or its equivalent in computer science and/or software technology and at least two years of experience in location-tracking technology. In the alternative to an undergraduate degree or its equivalent in computer science and/or software technology, a person of ordinary skill in the art would have four years of experience in computer programming and location-tracking technology.

VI. THE '970 PATENT

9. The '970 Patent discloses systems and methods for locating mobile platforms using different tracking service providers. Thus, as shown in Figure 1 of the '970 Patent, mobile platforms (21-24) may be located using location-tracking systems (11-14). In one

embodiment, location information is combined with map information, and the resultant map is sent to the subscriber.

VII. CLAIM TERMS

A. Location

Claim Term	Plaintiff's Proposed Construction	Defendants' Proposed Construction
location (14, 15, 16, 17, 18, 19)	No construction is necessary. If the Court determines construction is necessary: "position or whereabouts."	"Specific geographic position"

10. "Location" is not a technical term with specialized meaning. A person having ordinary skill in the art would understand "location" to mean "position or whereabouts" for at least the reasons set forth below.

11. The specification discloses a variety of maps including raster maps in various scales, vector maps, topographical maps and aerial photographs. (JA0228-29 at 4:12-22, 4:64-5:5.) Those skilled in the art would recognize that these maps may identify locations in non-geographic terms. For example, a vector map may include non-geographic features such as roads, buildings, businesses, parks, cities, elevations, etc., and location may be identified relative to those features.

12. Those skilled in the art would also recognize that "the top of the Empire State Building" represents a location, as does the "City of Wilmington" and "the intersection of Third Street and Main." Such "locations" are not "geographic positions."

13. Furthermore, the specification describes the use of several location tracking technologies, at least some of which are capable of determining non-geographical locations.

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