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

ROBERT BOSCH HEALTHCARE SYSTEMS, INC.,	§ § § § § § § § § § §	CIVIL ACTION NO. 2:13-CV-349-JRG
Plaintiff,		
v.		
CARDIOCOM, LLC, and ABBOTT DIABETES CARE, INC.,		
Defendants.		

DEFENDANT'S PRELIMINARY CLAIM CONSTRUCTIONS AND DISCLOSURE OF EXTRINSIC EVIDENCE PURSUANT TO LOCAL PATENT RULE 4-2

Defendant Cardiocom, LLC ("Cardiocom"), in accordance with P.R. 4-2, identifies the following preliminary proposed constructions of claim terms, phrases, or clauses of U.S. Patent Nos. 7,516,192 ("the '192 patent"); 7,587,469 ("the '469 patent"); 7,769,605 ("the '605 patent"); 7,840,420 ("the '420 patent"); 7,870,249 ("the '249 patent"); and 7,921,186 ("the '186 patent") (collectively, the "Asserted Patents") as well as its preliminary identification of extrinsic evidence supporting those constructions.

Cardiocom reserves the right to modify or supplement its claim constructions as discovery proceeds in view of any additional contentions made, or information disclosed by Robert Bosch Healthcare Systems, Inc. ("Bosch"). To the extent the claim terms set forth below include particular words or phrases appropriate to be construed separately, such claim words or phrases are deemed part of this disclosed list. Similarly, to the extent it is appropriate to construe words and phrases listed below in the context of additional claim language, such additional language is deemed part of this disclosure. All dependent claims incorporate the terms of the

independent claims as well as any dependent claim from which the claim depends. While some terms are identified with particular claims, if the same terms arise in claims not listed, the same definition should apply in the unlisted claims.

Cardicom's preliminary claim constructions shall not act as a waiver of any defense of noninfringement, invalidity, or unenforceability of the Asserted Patents. The inclusion of a claim term or phrase disclosed below is not intended to, and does not constitute an admission that the term or phrase is capable of construction and not indefinite under 35 U.S.C. § 112, lacking enablement or adequate written description. Cardiocom expressly reserves its right to contest the validity of any claim of the Asserted Patents on any ground. For those claim terms marked "indefinite" where Cardiocom has offered a construction, the construction shall not act as a waiver of Cardiocom's assertion of invalidity for reasons of claim indefiniteness. Cardiocom specifically asserts each of the defenses under 35 U.S.C. § 112 described under Local Rule 3-3 and 3-4.

Cardiocom reserves the right to support is constructions with intrinsic evidence, which under local rule need not be identified herein, including prosecution histories and IPR proceedings of the Asserted Patents and related patents. Cardiocom also reserves its right to seek construction of the terms listed on its Disclosure of Proposed Terms and Claim Elements for Construction, which currently it asserts should be subject to their plain meaning and thus do not require construction, if a dispute arises as to the plain meaning of such terms. Cardiocom also incorporates by reference all invalidity disclosures and responses to Bosch's interrogatories that have been served by Cardiocom in this matter.

No.	Claims	Term/Phrase	Proposed Construction
1.	'192 Patent: all claims '186 Patent: all claims '469 Patent: claims 10, 16, 22 '249 Patent: all claims	Script Program	an interpreted software program (as opposed to compiled), whose program files comprise commands, written in ASCII text, and which must be read by an interpreter in order to be executed
2.	'192 Patent: all claims '186 Patent: all claims '469 Patent: all claims '249 Patent: all claims	Program	A complete set of instructions which direct a computer to carry out a particular task[1]
3.	'192 Patent: claim 17 '249 Patent: all claims	Script generator	A program that creates a file containing a script program
4.	'192 Patent: claim 1 '249 Patent: all claims	Data merge / data merge program	a program that combines two or more sets of data into one.
5.	'192 Patent: claims 2, 5, 8, 10 '249 Patent: all claims	Script assignment unit / script assignor	a program that associates a script program with an individual
6.	'469 Patent: claim 11, 17	Household appliance	electronic equipment devised for home use
7.	'469 Patent: all claims	Execute said computer programs to provide a diagnosis of a performance of said [primary device or household appliance]	Execute said computer programs to provide a conclusion regarding the existence and cause of performance problems of said [primary device or household appliance]
8.	'192 Patent: all claims '186 Patent: all claims '249 Patent: all claims	Custom(ized) script program Customizing the script program	A generic script program that has been modified by inserting patient specific data
9.	'192 Patent: claims 1, 20	Generic script program	A script program containing placeholders corresponding to patient-specific data to be inserted into the program through a data merge
10.	'605 Patent: all claims '420 Patent: all claims	Icon	a graphical representation of an underlying function or data
11.	'605 Patent: all claims '420 Patent: all claims	Group overview chart / chart	information for multiple patients arranged in a form

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[1] *Dictionary of Personal Computing and the Internet,* Simon Collin, 1997 at 148.

			of one or more tables, graphs, or diagrams; excluding lists of patients
12.	'249 Patent: all claims	[assigning said / sending the / executing the] script program	Indefinite; OR The script program assigned, sent, or executed is the script program after it has been customized
13.	'186 Patent: all claims	(v) said programming information is presented to said individual by executing said computer program on said apparatus	Indefinite
14.	'469 Patent: all claims	Digital file	Indefinite; OR a named and ordered sequence of bytes that is known by an operating system. A file can be zero or more bytes and has a file format, access permissions, and file system characteristics (metadata) such as size and last modification date[2]
15.	'469 Patent: all claims	Through speech recognition	Indefinite
16.	'605 Patent: all claims	Patient's control over said health condition	Indefinite
17.	'605 Patent: all claims '420 Patent: all claims	Telephone message	An audio message selected and delivered by the computer system via a telephone device without human input
18.	'605 Patent: all claims '420 Patent: all claims	Electronic mail message	A message selected and delivered by the computer system through Simple Mail Transfer Protocol (SMTP) without human input
19.	'605 Patent: all claims	Processing . . . by the processing unit includes evaluating said corresponding set of measurements against said stored medical health	Processing by the processing unit includes the processing unit comparing said corresponding set of measurements to stored medical health history

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[2] PREMIS Data Dictionary for Preservation Metadata v. 2.1, p. 7 (Jan. 2011) (accessed Feb. 8, 2014 at http://www.loc.gov/standards/premis/v2/premis-report-2-1.pdf)

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		history information	information and making specific determinations regarding patient health
20.	'605 Patent: all claims	Evaluating	Indefinite
21.	'186 Patent: all claims	Programming information	Data comprising each of: a query, a message; a customized script program; and information specific to said individual
22.	'420 Patent: all claims	Receiving a user input, the user input selecting a data point…	Receiving a user input, the user input consisting only of the user selecting a data point
23.	'420 Patent: all claims	Proactively initiate said communication with the selected patient via the system	Indefinite OR Initiate communication by the computer system with the selected patient, based on the computer system's assessment that the communication is required based on data related to the patient's health condition
24.	'192 Patent: claims 2, 8, 10, 23, 26, 28 '249 Patent: all claims '186 Patent: all claims	Assign(s) / assigning	to fix or specify in correspondence or relationship[3]
25.	'192 Patent: claim 37	The customized script	Indefinite
26.	'469 Patent: all claims '186 Patent: all claims	Computer program(s)	a script program
27.	'192 Patent: all claims '249 Patent: all claims '186 Patent: all claims '469 Patent: all claims	Execute / executing / executed	to perform indicated tasks according to encoded instructions[4]
28.	'249 Patent: all claims '469 Patent: claims 2, 12	Audio processor	A computer chip that generates audio signals from text input
29.	'249 Patent: all claims	Audio interface	A medium for receiving or sending audio data[5]

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[3] Merriam-Webster Online Dictionary at http://www.merriam-webster.com/dictionary/assign (last viewed March 8, 2014).

[4] Merriam-Webster Online Dictionary at http://www.merriam-webster.com/dictionary/execute (last viewed, March 8, 2014)

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