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16 **[see next page for a listing of Defendant's counsel]**

17
18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**
20 **(San Jose Division)**

21
22 ROTHSCHILD DIGITAL MEDIA
INNOVATIONS LLC,

23 Plaintiff / Counter - Defendant

24
25 v.

26 SONY COMPUTER ENTERTAINMENT
AMERICA LLC,

27 Defendant / Counter – Plaintiff.
28

Case No. 5:14-cv-03928-PSG

**JOINT CLAIM CONSTRUCTION AND
PRE-HEARING STATEMENT**

Markman Hearing Date: Sept. 2, 2015
Time: 10:00 AM
Courtroom: Courtroom 5, 4th Floor
Judge: Hon. Paul. S. Grewal

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1 Pursuant to Northern District of California Patent Local Rule 4-3, Plaintiff Rothschild Digital
2 Media Innovations, LLC (“RDMI”) and Defendant Sony Computer Entertainment America LLC
3 (“SCEA”) jointly submit this Joint Claim Construction and Prehearing Statement.
4

5 **I. PROPOSED CLAIM CONSTRUCTIONS AND SUPPORTING EVIDENCE**

6 **A. Patent L.R. 4-2(c): Meet and Confer**

7 Pursuant to Patent L.R. 4-2(c), the parties have met and conferred regarding the submission
8 of this Joint Claim Construction and Prehearing Statement with regards to U.S. Pat. No. 6,101,534
9 (“the ‘534 patent”).

10 **B. Patent L.R. 4-3(a): Agreed Constructions**

11 Pursuant to Patent L.R. 4-3(a), the parties agree that the term “local processor assembly”
12 should be construed to mean “a computer at the user’s location.” This term appears in claims 1, 22,
13 23, and 24.

14 **C. Patent L.R. 4-3(b): Proposed Constructions of Disputed Terms**

15 Pursuant to Patent L.R. 4-3(b) the parties’ disputed terms and proposed constructions
16 thereof are identified in Exhibit “A” hereto. Exhibit “A” likewise includes the parties’
17 identification of intrinsic and extrinsic evidence in support of the parties’ respective proposed
18 constructions. Each party reserves the right to supplement or amend its supporting evidence (both
19 intrinsic and extrinsic) based on newly identified evidence, including but not limited to documents
20 requested but not yet received from the other party or the presentation of rebuttal declarations or
21 testimony. In addition, each party reserves the right to rely on any intrinsic or extrinsic evidence
22 identified by the other party in support of its proposed constructions.

23 **D. Patent L.R. 4-3(c): Most Significant Disputed Claim Terms for Construction**

24 Pursuant to Patent Local Rule 4-3(c), the parties jointly identify the following terms of the
25 ‘534 patent as most significant to resolution of the case:

- 26 1. “primary site data”
- 27 2. “primary site address”
- 28 3. “auxiliary site data”

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- 4. “auxiliary site addresses”*
- 5. “overlay processor”
- 6. “said primary site addresses including at least a portion of said primary site data”
- 7. “said remotely accessible, auxiliary site addresses being structured to be remotely accessed by said remote server assembly”
- 8. “said remotely accessible, auxiliary site addresses being structured to be remotely accessed by said remote server assembly so as to initiate utilization of said select portions of said quantity of auxiliary site data by said local processor assembly in conjunction with said primary site data”
- 9. “said remote server assembly remotely accessing said auxiliary site data to initiate utilization of said select portions of said quantity of auxiliary site data by said local processor assembly”

Those terms that the parties agree are most significant have been identified with a “*” in Exhibit “A.”

SCEA's Statement On Case Or Claim Dispositive Terms:

SCEA does not infringe under any of the proposed constructions. That said, adopting SCEA’s proposed construction for disputed claim term “said remotely accessible, auxiliary site addresses being structured to be remotely accessed by said remote server assembly” would provide an additional and independent ground for noninfringement of all asserted claim terms of the ‘534 Patent as RDMI has admitted that SCEA does not infringe under that construction. *See* Plf.’s Opp. to Def.’s Mtn. for Rule 11Sanctions at 17-20 [Dkt 53]; Plf.’s Sur-Reply to Def.’s Mtn. for Rule 11Sanctions at 10 [Dkt 61-1].

Further, adopting SCEA’s proposed construction for the disputed claim term “auxiliary site addresses” would provide an additional and independent ground for noninfringement of all asserted claim terms of the ‘534 Patent. Adopting SCEA’s proposed construction for the disputed claim term “said remotely accessible, auxiliary site addresses being structured to be remotely accessed by said remote server assembly so as to initiate utilization of said select portions of said quantity of

1 auxiliary site data by said local processor assembly in conjunction with said primary site data”
2 would provide an additional and independent ground of noninfringement of claim 1.

3 Additionally, a finding of indefiniteness for disputed claim term “said remote server
4 assembly remotely accessing said auxiliary site data to initiate utilization of said select portions of
5 said quantity of auxiliary site data by said local processor assembly” above would render claims 23
6 and 24 invalid as impermissible “hybrid” claims that improperly combine two classes of invention.

7 SCEA disagrees with RDMI’s characterization of SCEA’s discovery concerning the
8 accused products.

9
10 **RDMI’s Statement On Case Or Claim Dispositive Terms:**

11 RDMI objects to SCEA’s argumentative statement above as inappropriate and in violation
12 of Patent L.R. 4-3(c). RDMI respectfully submits that each asserted claim of the ‘534 patent is
13 valid and infringed, that each of SCEA’s proposed claim constructions is erroneous, and that
14 because SCEA has thus far refused to provide discovery of the products accused of infringement in
15 this case, RDMI is not aware of any claim term that is claim or case dispositive.

16 **II. CLAIM CONSTRUCTION HEARING**

17 The Court’s November 19, 2014 Case Scheduling Order (ECF No. 52) sets the following
18 schedule for claim construction:

19 Claim Construction Discovery Deadline (including experts): July 7, 2015;

20 Initial *Markman* Brief: July 20, 2015;

21 Opposition to *Markman* Brief: August 6, 2015;

22 Reply re *Markman* Brief: August 17, 2015;

23 *Markman* Hearing: September 2, 2015.

24 Pursuant to Patent L.R. 4-3(d), the parties anticipate the length of time necessary for the
25 Claim Construction Hearing is two hours per side for a total of four hours.

26 Pursuant to Patent L.R. 4-3(e), RDMI proposes to call Robert Stevenson, Ph.D. to provide
27 expert testimony at the Claim Construction Hearing that a person of ordinary skill in the art would
28 interpret the claims as asserted by RDMI and may rely on Dr. Stevenson's opinion in support of its

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