Case 2:17-cv-00513-JRG Document 149-1 Filed 06/15/18 Page 1 of 131 PageID #: 5460

Claim Term (Asserted Claim)	Plaintiff AGIS's Position and	Defendants' Position and Suppo
	Supporting Evidence	Evidence
1. "a data transmission means that	Governed by 35 U.S.C. § 112(6)	Governed by 35 U.S.C. § 112(6)
facilitates the transmission of electronic		
files between said PDA/cell phones in	Structure/Intrinsic Support	Function: facilitating the transmis
different locations"		electronic files between said PDA
	See, e.g., '970 Patent at 1:39-43; 2:36-43;	in different locations
('970 Claim 1)	4:1-36; Figs. 2, 3A, 3B, and 4. '970 File	
	History, Application 12/324,122, Claims,	Indefinite under 35 U.S.C. § 112(
	2008-11-26.	
		Structure: No sufficient correspon
	AGIS notes that its investigation is	structure disclosed. To the extent
	ongoing and it expressly reserves the right	structure is disclosed, it is a gener
	to identify additional structure(s), act(s), or	PDA or cell phone for implementi
	material(s) corresponding to this term. <sup>1</sup>	undisclosed algorithm. The disclo
	g	forth at '970 Patent at 1:39-43; 2:
		36; Figs. 2, 3A, 3B, and 4. '970 F
	Extrinsic Support	Application 12/324,122, Claims, 2
		do not provide an algorithm that c
		to the claimed function.
	AGIS may rely on papers and/or	to the claimed function.
	declarations filed in Inter Partes Review	Intrinsic Support
		<u>Intrinsic Support</u>
	numbers IPR2018-00817, IPR2018-00818,	San a c '070 Detent at 2:22 21 2
	IPR2018-00819, IPR2018-00821,	See, e.g., '970 Patent at 3:22-31, 3
	IPR2018-01079, IPR2018-01080,	4:33-36, 4:47-49.
	IPR2018-01081, IPR2018-01082,	
	IPR2018-01083, IPR2018-01084,	Extrinsic Support

Appendix 1 - Parties' Proposed Constructions and Supporting Evidence

<sup>&</sup>lt;sup>1</sup> AGIS reserves the right, for purposes of establishing priority, to identify structure from all preceding applications in the priority chain which are by reference in their entirety, including U.S. patent application Ser. No. 11/612,830 filed on Dec. 19, 2006 which is a continuation-in-part of U.S. application Ser. No. 11/308,648 filed Apr. 17, 2006 which is a continuation-in-part of U.S. patent application Ser. No. 10/711,490 now U.S. Pat. N

#### Case 2:17-cv-00513-JRG Document 149-1 Filed 06/15/18 Page 2 of 131 PageID #: 5461

	IPR2018-01085, IPR2018-01086,	
	IPR2018-01087, and IPR2018-01088.	Defendants intend to rely on a sy
		declaration of Chris Bartone <sup>2</sup> to
	Plaintiff intends to rely on a sworn	technology, state of the art at the
	declaration of Dr. Jaime G. Carbonell to	invention, the level of ordinary s
	explain the technology, state of the art at	relevant art, and the meaning of
	the time of the invention, the level of	element to a person of ordinary s
	ordinary skill in the relevant art, and the	at the time of the alleged invention
	meaning of this claim element to a person	(1) whether a person of ordinary
	of ordinary skill in the art at the time of the	art would understand the claim to
	alleged invention, including (1) whether a	sufficiently definite meaning as t
	person of ordinary skill in the art would	structure and (2) whether a perso
	understand the claim term to have a	skill in the art would understand
	sufficiently definite meaning as the name	specification to disclose sufficient
	for structure and (2) whether a person of	corresponding to the claimed fur
	ordinary skill in the art would understand	1
	the specification to disclose sufficient	Defendants may also rely on Dr.
	structure corresponding to the claimed	respond to Plaintiff's claim cons
	function. Plaintiff may also rely on Dr.	positions and any testimony of F
	Carbonell to respond to Defendants' claim	expert and witnesses.
	construction positions and any testimony of	1
	Defendants' expert and witnesses. Plaintiff	Defendants also reserve the righ
	also reserves the right to rely on positions	positions and evidence relied up
	and evidence relied upon by Defendants	Plaintiff and its experts in the re
	and its experts in the related IPR	proceedings.
	proceedings.	Į
2. "means for attaching a forced	Governed by 35 U.S.C. § 112(6)	Governed by 35 U.S.C. § 112(6

 $<sup>^{2}</sup>$  In addition, Defendants ZTE (USA), Inc.("ZTA") and ZTE (TX) Inc. ("ZTX") intend to rely on a sworn declaration of Robert Akl to explain the state of the art at the tiem of the invention, the level of ordinary skill in the relevant art, and the meaning of these claim elements to a person of or the art at the time of the alleged invention, including: (1) whether a person of ordinary skill in the art would understand the claim term to have a selection definite meaning as the name for structure and (2) whether a person of ordinary skill in the art would understand the specification to disclose sufficiency of the claimed function. Defendants ZTA and ZTE may also rely on Dr. Akl to respond to Plaintiff's claim construction positions testimony of Plaintiff's expert and witnesses.

Find authenticated court documents without watermarks at docketalarm.com.

#### Case 2:17-cv-00513-JRG Document 149-1 Filed 06/15/18 Page 3 of 131 PageID #: 5462

		1
message alert software packet to a		
voice or text message creating a forced	Structure/Intrinsic Support	Function: attaching a forced me
message alert that is transmitted by said		software packet to a voice or tex
sender PDA/cell phone to the recipient	See, e.g., Algorithm set forth in Fig 2, 3A,	creating a forced message alert t
PDA/cell phone, said forced message	3B. 7:8-63. '970 File History, Application	transmitted by said sender PDA
alert software packet containing a list	12/324,122, Claims, 2008-11-26.	the recipient PDA/cell phone, sa
of possible required responses"/		message alert software packet co
"means for attaching a forced message	AGIS notes that its investigation is	list of possible required response
alert software packet to a voice or text	ongoing and it expressly reserves the right	
message creating a forced message	to identify additional structure(s), act(s), or	Indefinite under 35 U.S.C. § 112
alert that is transmitted by said sender	material(s) corresponding to this term. <sup>3</sup>	
PDA/cell phone to the recipient		Structure: No sufficient correspo
PDA/cell phone"		structure disclosed. To the extern
		structure is disclosed, it is a gene
('970 Claim 1)		PDA or cell phone for implement
	Extrinsic Support	undisclosed algorithm. The disc
		forth at '970 Patent at Fig 2, 3A
	AGIS may rely on papers and/or	'970 File History, Application 1
	declarations filed in Inter Partes Review	Claims, 2008-11-26 do not prov
	numbers IPR2018-00817, IPR2018-00818,	algorithm that corresponds to the
	IPR2018-00819, IPR2018-00821,	function.
	IPR2018-01079, IPR2018-01080,	
	IPR2018-01081, IPR2018-01082,	Intrinsic Support
	IPR2018-01083, IPR2018-01084,	
	IPR2018-01085, IPR2018-01086,	See, e.g., '970 Patent at 3:22-31,
	IPR2018-01087, and IPR2018-01088.	4:33-36, 4:47-49.
	Plaintiff intends to rely on a sworn	Extrinsic Support
	declaration of Dr. Jaime G. Carbonell to	Extrast Support
	explain the technology, state of the art at	Defendants intend to rely on a s
	explain the technology, state of the art at	Detendants intend to fely off a s

<sup>3</sup> AGIS reserves the right, for purposes of establishing priority, to identify structure from all preceding applications in the priority chain which are by reference in their entirety, including U.S. patent application Ser. No. 11/612,830 filed on Dec. 19, 2006 which is a continuation-in-part of U.S. patent application Ser. No. 11/308,648 filed Apr. 17, 2006 which is a continuation-in-part of U.S. patent application Ser. No. 11/308,648 filed Apr. 17, 2006 which is a continuation-in-part of U.S. patent application Ser. No. 11/308,648 filed Apr. 17, 2006 which is a continuation-in-part of U.S. patent application Ser. No. 11/308,648 filed Apr. 17, 2006 which is a continuation-in-part of U.S. patent application Ser. No. 11/308,648 filed Apr. 17, 2006 which is a continuation-in-part of U.S. patent application Ser. No. 11/308,648 filed Apr. 17, 2006 which is a continuation-in-part of U.S. patent application Ser. No. 11/308,648 filed Apr. 17, 2006 which is a continuation-in-part of U.S. patent application Ser. No. 11/308,648 filed Apr. 17, 2006 which is a continuation-in-part of U.S. patent application Ser. No. 11/308,648 filed Apr. 17, 2006 which is a continuation-in-part of U.S. patent application Ser. No. 11/308,648 filed Apr. 17, 2006 which is a continuation-in-part of U.S. patent application Ser. No. 11/308,648 filed Apr. 17, 2006 which is a continuation-in-part of U.S. patent application Ser. No. 11/308,648 filed Apr. 17, 2006 which is a continuation-in-part of U.S. patent application Ser. No. 11/308,648 filed Apr. 17, 2006 which is a continuation-in-part of U.S. patent application Ser. No. 11/308,648 filed Apr. 17, 2006 which is a continuation-in-part of U.S. patent application Ser. No. 11/308,648 filed Apr. 17, 2006 which is a continuation-in-part of U.S. patent application Ser. No. 11/308,648 filed Apr. 17, 2006 which is a continuation-in-part of U.S. patent application Ser. No. 11/308,648 filed Apr. 17, 2006 which is a continuation-in-part of U.S. patent application Ser. No. 11/308,648 filed Apr. 17, 2006 w

Find authenticated court documents without watermarks at docketalarm.com.

## Case 2:17-cv-00513-JRG Document 149-1 Filed 06/15/18 Page 4 of 131 PageID #: 5463

	the time of the invention, the level of ordinary skill in the relevant art, and the meaning of this claim element to a person of ordinary skill in the art at the time of the alleged invention, including (1) whether a person of ordinary skill in the art would understand the claim term to have a sufficiently definite meaning as the name for structure and (2) whether a person of ordinary skill in the art would understand the specification to disclose sufficient structure corresponding to the claimed function. Plaintiff may also rely on Dr. Carbonell to respond to Defendants' claim construction positions and any testimony of Defendants' expert and witnesses. Plaintiff also reserves the right to rely on positions and evidence relied upon by Defendants and its experts in the related IPR proceedings.	declaration of Chris Bartone to e technology, state of the art at the invention, the level of ordinary s relevant art, and the meaning of element to a person of ordinary s at the time of the alleged inventi (1) whether a person of ordinary art would understand the claim t sufficiently definite meaning as structure and (2) whether a perso skill in the art would understand specification to disclose sufficien corresponding to the claimed fun Defendants may also rely on Dr. respond to Plaintiff's claim conse positions and any testimony of F expert and witnesses. Defendants also reserve the righ positions and evidence relied up Plaintiff and its experts in the reli- proceedings.
3. "[means for] requiring the forced message alert software on said recipient PDA/cell phone to transmit an automatic acknowledgment to the sender PDA/cell phone as soon as said forced message alert is received by the recipient PDA/cell phone" ('970 Claim 1)	<ul> <li>Plain Meaning</li> <li>AGIS reserves its right to challenge</li> <li>Defendants' contention that this term</li> <li>should be governed by 35 U.S.C. § 112, ¶</li> <li>6. AGIS contends that the claim term</li> <li>provides sufficient structure.</li> <li>In the alternative, AGIS identifies the</li> </ul>	Governed by 35 U.S.C. § 112(6) Function: requiring the forced m software on said recipient PDA/ transmit an automatic acknowled sender PDA/cell phone as soon a message alert is received by the PDA/cell phone

DOCKET ALARM Find authenticated court documents without watermarks at <u>docketalarm.com</u>.

#### Case 2:17-cv-00513-JRG Document 149-1 Filed 06/15/18 Page 5 of 131 PageID #: 5464

following structure/intrinsic support:	Indefinite under 35 U.S.C. § 112
See, e.g., '970 Patent, Fig 4; 2:7-35; 8:16-	
62. '970 File History, Application	Structure: No sufficient correspo
12/324,122, Claims, 2008-11-26.	structure disclosed. To the extern
	structure is disclosed, it is a gene
AGIS notes that its investigation is	PDA or cell phone for implement
ongoing and it expressly reserves the right	undisclosed algorithm. The disc
to identify additional structure(s), act(s), or	forth at 970 Patent, Fig 4; 2:7-35
material(s) corresponding to this term. <sup>4</sup>	'970 File History, Application 1
	Claims, 2008-11-26 do not prov
	algorithm that corresponds to the
	function.
Extrinsic Support	
	Intrinsic Support
AGIS may rely on papers and/or	
declarations filed in Inter Partes Review	See, e.g., '970 Patent at 3:22-31,
numbers IPR2018-00817, IPR2018-00818,	4:33-36, 4:47-49.
IPR2018-00819, IPR2018-00821,	
IPR2018-01079, IPR2018-01080,	Extrinsic Support
IPR2018-01081, IPR2018-01082,	
IPR2018-01083, IPR2018-01084,	Defendants intend to rely on a sy
IPR2018-01085, IPR2018-01086,	declaration of Chris Bartone to e
IPR2018-01087, and IPR2018-01088.	technology, state of the art at the
	invention, the level of ordinary s
Plaintiff intends to rely on a sworn	relevant art, and the meaning of
declaration of Dr. Jaime G. Carbonell to	element to a person of ordinary
explain the technology, state of the art at	at the time of the alleged invention
the time of the invention, the level of	(1) whether a person of ordinary
ordinary skill in the relevant art, and the	art would understand the claim t
meaning of this claim element to a person	sufficiently definite meaning as

<sup>4</sup> AGIS reserves the right, for purposes of establishing priority, to identify structure from all preceding applications in the priority chain which ar by reference in their entirety, including U.S. patent application Ser. No. 11/612,830 filed on Dec. 19, 2006 which is a continuation-in-part of U.S. application Ser. No. 11/308,648 filed Apr. 17, 2006 which is a continuation-in-part of U.S. patent application Ser. No. 10/711,490 now U.S. Pat.

A L A R M Find authenticated court documents without watermarks at <u>docketalarm.com</u>.

DOCKET

## DOCKET A L A R M



# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## **Real-Time Litigation Alerts**



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## **Advanced Docket Research**



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## **Analytics At Your Fingertips**



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

### LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

### FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.