Case 2:17-cv-00513-JRG Document 162-1 Filed 07/23/18 Page 1 of 125 PageID #: 5650

Claim Term (Asserted Claim)	Plaintiff AGIS's Position and	Defendants' Position and Supporting
	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	Function: facilitating the transmission of	Function: facilitating the transmission of
different locations"	electronic files between said PDA/cell	electronic files between said PDA/cell phones
	phones in different locations	in different locations
('970 Claim 1)		
	Structure/Intrinsic Support	Indefinite under 35 U.S.C. § 112(b)
	Communication network server, '970	Structure: No sufficient corresponding
	Patent at 1:39-43; 2:36-43; 4:1-36; Figs. 2,	structure disclosed. To the extent any
	3A, 3B, and 4.	structure is disclosed, it is a general purpose PDA or cell phone for implementing an
	AGIS notes that its investigation is	undisclosed algorithm. The disclosures set
	ongoing and it expressly reserves the right	forth at '970 Patent at 1:39-43; 2:36-43; 4:1-
	to identify additional structure(s), act(s), or	36; Figs. 2, 3A, 3B, and 4. '970 File History,
	material(s) corresponding to this term. <sup>1</sup>	Application 12/324,122, Claims, 2008-11-26
		do not provide an algorithm that corresponds
		to the claimed function.
	Extrinsic Support	
		Intrinsic Support
	AGIS may rely on papers and/or	See, e.g., '970 Patent at 3:22-31, 3:41-43,
	declarations filed in Inter Partes Review	4:33-36, 4:47-49.
	numbers IPR2018-00817, IPR2018-00818,	
	IPR2018-00819, IPR2018-00821,	Extrinsic Support

<b>Appendix 1 - Parties'</b>	Proposed	Constructions and	Supporting Evidence
Appendix 1 - 1 artics	TToposcu	Constituctions and	Supporting Evidence

**Z** 

<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 incorporated 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. 10/711,490 now U.S. Pat. No. 7,031,728.

#### Case 2:17-cv-00513-JRG Document 162-1 Filed 07/23/18 Page 2 of 125 PageID #: 5651

IPR2018-01079, IPR2018-01080,	
IPR2018-01081, IPR2018-01082,	Defendants intend to rely on a sworn
IPR2018-01083, IPR2018-01084,	declaration of Chris Bartone <sup>2</sup> to explain the
IPR2018-01085, IPR2018-01086,	technology, state of the art at the time of the
IPR2018-01087, and IPR2018-01088.	invention, the level of ordinary skill in the
	relevant art, and the meaning of this claim
Plaintiff intends to rely on a sworn	element to a person of ordinary skill in the art
declaration of Dr. Jaime G. Carbonell to	at the time of the alleged invention, including
explain the technology, state of the art at	(1) whether a person of ordinary skill in the
the time of the invention, the level of	art would understand the claim term to have a
ordinary skill in the relevant art, and the	sufficiently definite meaning as the name for
meaning of this claim element to a person	structure and (2) whether a person of ordinary
of ordinary skill in the art at the time of the	skill in the art would understand the
alleged invention, including (1) whether a	specification to disclose sufficient structure
person of ordinary skill in the art would	corresponding to the claimed function.
understand the claim term to have a	
sufficiently definite meaning as the name	Defendants may also rely on Dr. Bartone to
for structure and (2) whether a person of	respond to Plaintiff's claim construction
ordinary skill in the art would understand	positions and any testimony of Plaintiff's
the specification to disclose sufficient	expert and witnesses.
structure corresponding to the claimed	
function. Plaintiff may also rely on Dr.	Defendants also reserve the right to rely on
Carbonell to respond to Defendants' claim	positions and evidence relied upon by
construction positions and any testimony of	Plaintiff and its experts in the related IPR
Defendants' expert and witnesses. Plaintiff	proceedings.
also reserves the right to rely on positions	
and evidence relied upon by Defendants	

 $<sup>^2</sup>$  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 technology, 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 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. Defendants ZTA and ZTE may also rely on Dr. Akl to respond to Plaintiff's claim construction positions and any testimony of Plaintiff's expert and witnesses.

#### Case 2:17-cv-00513-JRG Document 162-1 Filed 07/23/18 Page 3 of 125 PageID #: 5652

	and its experts in the related IPR proceedings.	
2. "means for attaching a forced message alert software packet to a	Governed by 35 U.S.C. § 112(6)	Governed by 35 U.S.C. § 112(6)
voice or text message creating a forced message alert that is transmitted by said sender PDA/cell phone to the recipient PDA/cell phone, said forced message alert software packet containing a list	Function: attaching a forced message alert software packet to a voice or text message creating a forced message alert that is transmitted by said sender PDA/cell phone to the recipient PDA/cell phone	Function: attaching a forced message alert software packet to a voice or text message creating a forced message alert that is transmitted by said sender PDA/cell phone to the recipient PDA/cell phone, said forced
of possible required responses"/ "means for attaching a forced message	Structure/Intrinsic Support	message alert software packet containing a list of possible required responses
alert software packet to a voice or text message creating a forced message alert that is transmitted by said sender	Algorithm set forth in Fig 2, 3A, 3B. 7:8-63.	Indefinite under 35 U.S.C. § 112(b)
PDA/cell phone to the recipient PDA/cell phone"	AGIS notes that its investigation is	Structure: No sufficient corresponding structure disclosed. To the extent any structure is disclosed it is a supercluster of the structure is disclosed it is a supercluster of the structure is disclosed in the supercluster of the structure is disclosed in the structure is disclosed in the supercluster of the structure is disclosed in
('970 Claim 1)	ongoing and it expressly reserves the right to identify additional structure(s), act(s), or material(s) corresponding to this term. <sup>3</sup>	structure is disclosed, it is a general purpose PDA or cell phone for implementing an undisclosed algorithm. The disclosures set forth at '970 Patent at Fig 2, 3A, 3B. 7:8-63. '970 File History, Application 12/324,122, Claims, 2008-11-26 do not provide an algorithm that corresponds to the claimed
	Extrinsic Support	function.
	AGIS may rely on papers and/or declarations filed in Inter Partes Review numbers IPR2018-00817, IPR2018-00818, IPR2018-00819, IPR2018-00821, IPR2018-01079, IPR2018-01080,	Intrinsic Support See, e.g., '970 Patent at 3:22-31, 3:41-43, 4:33-36, 4:47-49.

<sup>&</sup>lt;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 incorporated 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. 10/711,490 now U.S. Pat. No. 7,031,728.

#### Case 2:17-cv-00513-JRG Document 162-1 Filed 07/23/18 Page 4 of 125 PageID #: 5653

	IPR2018-01081, IPR2018-01082,	Extrinsic Support
	IPR2018-01083, IPR2018-01084,	
	IPR2018-01085, IPR2018-01086,	Defendants intend to rely on a sworn
	IPR2018-01087, and IPR2018-01088.	declaration of Chris Bartone to explain the
		technology, state of the art at the time of the
	Plaintiff intends to rely on a sworn	invention, the level of ordinary skill in the
	declaration of Dr. Jaime G. Carbonell to	relevant art, and the meaning of this claim
	explain the technology, state of the art at	element to a person of ordinary skill in the art
	the time of the invention, the level of	at the time of the alleged invention, including
	ordinary skill in the relevant art, and the	(1) whether a person of ordinary skill in the
	meaning of this claim element to a person	art would understand the claim term to have a
	of ordinary skill in the art at the time of the	sufficiently definite meaning as the name for
	alleged invention, including (1) whether a	structure and (2) whether a person of ordinary
	person of ordinary skill in the art would	skill in the art would understand the
	understand the claim term to have a	specification to disclose sufficient structure
	sufficiently definite meaning as the name	corresponding to the claimed function.
	for structure and (2) whether a person of	
	ordinary skill in the art would understand	Defendants may also rely on Dr. Bartone to
	the specification to disclose sufficient	respond to Plaintiff's claim construction
	structure corresponding to the claimed	positions and any testimony of Plaintiff's
	function. Plaintiff may also rely on Dr.	expert and witnesses.
	Carbonell to respond to Defendants' claim	-
	construction positions and any testimony of	Defendants also reserve the right to rely on
	Defendants' expert and witnesses. Plaintiff	positions and evidence relied upon by
	also reserves the right to rely on positions	Plaintiff and its experts in the related IPR
	and evidence relied upon by Defendants	proceedings.
	and its experts in the related IPR	
	proceedings.	
3. "[means for] requiring the forced	Plain Meaning - not Governed by 35	Governed by 35 U.S.C. § 112(6)
message alert software on said	U.S.C. § 112(6)	-
recipient PDA/cell phone to transmit an		Function: requiring the forced message alert
automatic acknowledgment to the	AGIS reserves its right to challenge	software on said recipient PDA/cell phone to
sender PDA/cell phone as soon as said	Defendants' contention that this term	transmit an automatic acknowledgment to the

#### Case 2:17-cv-00513-JRG Document 162-1 Filed 07/23/18 Page 5 of 125 PageID #: 5654

forced message alert is received by the	should be governed by 35 U.S.C. § 112, ¶	sender PDA/cell phone as soon as said forced
recipient PDA/cell phone"	6. AGIS contends that the claim term	message alert is received by the recipient
reepient i DAveen phone	provides sufficient structure.	PDA/cell phone
('970 Claim 1)	provides sufficient structure.	T Driveen phone
	In the alternative, AGIS identifies the	Indefinite under 35 U.S.C. § 112(b)
	following structure/intrinsic support	
	corresponding to Defendants' proposed	Structure: No sufficient corresponding
	function: '970 Patent, Fig 4; 2:7-35; 8:16-	structure disclosed. To the extent any
	62.	structure is disclosed, it is a general purpose
		PDA or cell phone for implementing an
		undisclosed algorithm. The disclosures set
	AGIS notes that its investigation is	forth at 970 Patent, Fig 4; 2:7-35; 8:16-62.
	ongoing and it expressly reserves the right	'970 File History, Application 12/324,122,
	to identify additional structure(s), act(s), or	Claims, 2008-11-26 do not provide an
	material(s) corresponding to this term. <sup>4</sup>	algorithm that corresponds to the claimed
		function.
		Intrinsic Support
	Extrinsic Support	
		See, e.g., '970 Patent at 3:22-31, 3:41-43,
	AGIS may rely on papers and/or	4:33-36, 4:47-49.
	declarations filed in Inter Partes Review	
	numbers IPR2018-00817, IPR2018-00818,	Extrinsic Support
	IPR2018-00819, IPR2018-00821,	
	IPR2018-01079, IPR2018-01080,	Defendants intend to rely on a sworn
	IPR2018-01081, IPR2018-01082,	declaration of Chris Bartone to explain the
	IPR2018-01083, IPR2018-01084,	technology, state of the art at the time of the
	IPR2018-01085, IPR2018-01086,	invention, the level of ordinary skill in the
	IPR2018-01087, and IPR2018-01088.	relevant art, and the meaning of this claim
		element to a person of ordinary skill in the art

<sup>&</sup>lt;sup>4</sup> AGIS reserves the right, for purposes of establishing priority, to identify structure from all preceding applications in the priority chain which are incorporated 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. 10/711,490 now U.S. Pat. No. 7,031,728.

## 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.