

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

IOENGINE, LLC,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 14-1571-GMS
)	
INTERACTIVE MEDIA CORP. D/B/A)	
KANGURU SOLUTIONS,)	JURY TRIAL DEMANDED
)	
Defendant.)	
)	
<hr/>		
IOENGINE, LLC,)	
)	
Plaintiff and Counterclaim-)	
Defendant,)	Civil Action No. 14-1572-GMS
)	
v.)	
)	JURY TRIAL DEMANDED
IMATION CORP.,)	
)	
Defendant and Counterclaim-)	
Plaintiff.)	
)	
<hr/>		

FINAL JOINT CLAIM CHART

Pursuant to the Court’s Scheduling Order, Plaintiff and Counterclaim-Defendant IOENGINE, LLC (“IOENGINE” or “Plaintiff”), Defendant Interactive Media Corp. D/B/A Kanguru Solutions (“IMC”), and Defendant and Counterclaim-Plaintiff Imation Corp., (“Imation”) (Imation and IMC, collectively, the “Defendants”) hereby provide the following Final Joint Claim Chart, attached hereto as Appendix A. Appendix A includes the parties’

respective proposed constructions for the disputed terms from the asserted claims¹ of U.S. Patent No. 8,539,047 (the "'047 Patent"). The parties have met and conferred in an attempt to narrow their claim construction disputes, but have been unable to reach agreement as to the 10 terms set forth in Appendix A. The intrinsic and extrinsic evidence identified in Appendix A reflects the parties' current understanding; the parties reserve the right to rely upon additional intrinsic and extrinsic evidence as needed. The parties will continue to meet and confer in an effort to further narrow the remaining claim construction disputes and reserve the right to propose one or more agreed-upon constructions or to decline to construe one or more of the currently disputed terms.

Terms 1-4 in Appendix A have been proposed by IOENGINE for construction in both cases. The parties have agreed that terms 1-4 will be briefed and argued by Imation on behalf of both Imation and IMC. IMC agrees that any construction of terms 1-4 shall be binding upon IMC.

Terms 5-7 in Appendix A have been proposed for construction by Imation and IMC. Terms 5-7 in Appendix A will be briefed and argued by Imation on behalf of both Imation and IMC. IMC agrees that any construction of terms 5-7 shall be binding upon IMC. Terms 8-10 in Appendix A have been proposed for construction by IMC and will be briefed and argued by IMC only. IOENGINE believes that any terms that are construed should be construed for all parties regardless of which party proposed the term for construction, and that any construction should be applied in both cases. Imation believes that any construction of terms 8-10 is not part of the litigation between IOENGINE and Imation, and any such construction should apply only to IMC and IOENGINE.

¹ IOENGINE has asserted Claims 1, 2 and 6-31 of the '047 Patent against Imation and against IMC.

AGREED TO BY THE PARTIES:

Dated: November 4, 2015

Respectfully submitted,

Smith, Katzenstein & Jenkins, LLP

/s/ Eve H. Ormerod

Neal C. Belgam (#2721)
Eve H. Ormerod (#5369)
1000 West Street, Suite 1501
Wilmington, Delaware 19899
Telephone: (302) 504-1688
nbelgam@skjlaw.com
eormerod@skjlaw.com

*Attorneys for Plaintiff and Counterclaim-
Defendant IOENGINE*

OF COUNSEL:

Jeffrey Ostrow
jostrow@stblaw.com
SIMPSON THACHER & BARTLETT LLP
2475 Hanover Street
Palo Alto, California 94304
Telephone: (650) 251-5000

Noah M. Leibowitz
nleibowitz@stblaw.com
Gregory T. Chuebon
gchuebon@stblaw.com
SIMPSON THACHER & BARTLETT LLP
425 Lexington Avenue
New York, New York 10017
Tel: (212) 455-2000

MORRIS JAMES LLP

/s/ Kenneth L. Dorsney

Kenneth L. Dorsney (#3726)
500 Delaware Avenue, Suite 1500
Wilmington, Delaware 19801
(302) 888-6800
kdorsney@morrisjames.com

*Attorneys for Defendant
Interactive Media Corp. d/b/a
Kanguru Solutions*

OF COUNSEL:

Mark T. Stopa (BBO # 560264)
STOPA & ASSOCIATES, LLC
132 Central Street – Suite 209
Foxboro, Massachusetts 02035
Phone: (508) 543 – 0600
Fax: (508) 543 – 0615
mtstopa@verizon.net

RICHARDS, LAYTON & FINGER, P.A.

/s/ Christine Haynes

Frederick L. Cottrell III (#2555)

Christine D. Haynes (#4697)

One Rodney Square

920 North King Street

Wilmington, Delaware 19801

(302) 651-7700

cottrell@rlf.com

haynes@rlf.com

*Attorneys for Defendant and Counterclaim-
Plaintiff Imation Corp.*

OF COUNSEL:

Kurt J. Niederluecke (MN #0271597)
(admitted pro hac vice)

Grant D. Fairbairn (MN #0327785)
(admitted pro hac vice)

Adam R. Steinert (MN #0389648)
(admitted pro hac vice)

FREDRIKSON & BYRON, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, MN 55402-1425

Telephone: 612.492.7000

Facsimile: 612.492.7077

kniederluecke@fredlaw.com

gfairbairn@fredlaw.com

asteinert@fredlaw.com

Plaintiff’s Terms for Construction:²

<u>No.</u>	<u>CLAIM TERM AND AFFECTED CLAIMS</u>	<u>PLAINTIFF’S PROPOSED CONSTRUCTION(S)</u>	<u>DEFENDANTS’ CONSTRUCTION(S)</u>
1	<p><u>Proposed by Plaintiff:</u></p> <p>“executable program code stored thereon”</p> <p>’047 Patent, independent claims 1, 24, 26, 27 and 30 (and dependent claims 25 and 31).</p>	<p><u>Proposed Construction:</u></p> <p>“a sequence of instructions that can be run from the portable device memory on which it is stored”</p> <p><u>Intrinsic Evidence:</u></p> <p>’047 Patent:</p> <p>’047 Patent at 2:55-66, 5:1-4, 5:20-31, 6:5-57, 28:46-50, and Fig. 3.</p> <p>’047 Prosecution History:</p> <p>Prosecution History of ’047 Patent, January 25, 2013, Response to Office Action, at 10.</p> <p><u>Extrinsic Evidence:</u></p> <p><i>IEEE 100 The Authoritative Dictionary of IEEE Standards Terms</i>, Standards</p>	<p><u>Proposed Construction:</u></p> <p>No construction needed. “executable” and “stored” are well understood. To the extent any construction is needed, “program code that can be run from memory located thereon”</p> <p><u>Extrinsic Evidence:</u></p> <p><i>Microsoft Computer Dictionary</i> (ed. 1999): “executable program code” pertaining to, or being a program file that can be run...”; “executable program file that can be run...”; “executable program file0.bat, file1.exe, or file2.exe”</p> <p><i>Microsoft Computer Dictionary</i> (ed. 1999): “storage location” the position at which a program file can be found—either an absolute location or a uniquely identified location</p>

² IOENGINE has proposed term nos. 1-4 for construction in both cases. The parties have agreed that terms proposed by IOENGINE will be briefed and argued by Imation on behalf of both Imation and IMC. IMC agrees that any construction of terms proposed by IOENGINE shall be binding upon IMC.

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.