

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

IOENGINE, LLC,	)	
	)	
Plaintiff,	)	
	)	C.A. No. 14-01571-GMS
v.	)	
	)	<b>JURY TRIAL DEMANDED</b>
INTERACTIVE MEDIA CORP.	)	
D/B/A KANGURU SOLUTIONS,	)	
	)	
Defendant.	)	
_____	)	

**PLAINTIFF IOENGINE, LLC'S OPPOSITION TO INTERACTIVE MEDIA CORP.'S  
RENEWED MOTION FOR JUDGMENT AS A MATTER OF LAW OR, IN THE  
ALTERNATIVE, FOR A NEW TRIAL**

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## **I. SUMMARY OF ARGUMENT**

IMC's motion is entirely divorced from the factual record developed at trial. It is an attempt to rewrite history after the jury, with the benefit of an extensive factual record and expert testimony, judged the credibility of the witnesses at the five-day trial and properly found against IMC on issues of infringement, validity, and inventorship. This is not a case where judgment as a matter of law or a new trial is appropriate. IMC's motion should be denied.

1. Nearly all of IMC's arguments for JMOL amount to entirely new arguments never before raised in a Rule 50(a) motion. IMC's Rule 50(b) arguments based on anticipation, enablement, the meaning of the claim term "when," and the alleged lack of direct evidence of third program code have all been waived.

2. IMC's invalidity arguments additionally fail because IMC's motion mistakes the relevant standard, attempting to flip the burden of proof on validity. Moreover, Genske does not disclose all three claimed program codes, which must be run *from* the portable device memory (regardless of which processor they are run *by*), and there is ample evidence of enablement.

3. Substantial evidence supports the jury's finding that IMC's infringing products contain third program code which, when executed by the portable device processor, causes a network communication to be transmitted. IMC's arguments to the contrary ignore the evidence and misunderstand IOENGINE's infringement analysis as presented to and accepted by the jury.

4. Finally, IMC fails to account for the significant credibility issues facing each of its proffered expert witnesses—whose testimony was subject to rejection by a reasonable jury.

## **II. NATURE AND STAGE OF THE PROCEEDINGS**

After a five-day jury trial on IOENGINE, LLC's ("IOENGINE") claims of patent infringement against Interactive Media Corp. d/b/a Kanguru Solutions ("IMC"), the jury returned its verdict on January 13, 2017, finding the asserted claims of U.S. Patent No. 8,539,047 (the

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