

**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.)
)
)
)

IOENGINE, LLC,)
)
 Plaintiff and Counterclaim-)
 Defendant,)
) Civil Action No. 14-1572-GMS
 v.)
) **JURY TRIAL DEMANDED**
 IMATION CORP.,)
)
 Defendant and Counterclaim-)
 Plaintiff.)
)
)
)

IMATION CORP.,)
)
 Counterclaim-Plaintiff,)
)
 v.)
)
 IOENGINE, LLC, AND SCOTT F.)
 McNULTY.,)
)
 Counterclaim-Defendants.)
)
)
)

PLAINTIFF IOENGINE, LLC's ANSWERING CLAIM CONSTRUCTION BRIEF

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Dated: January 8, 2016

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I. INTRODUCTION

Although the parties collectively propose 10 claim terms from U.S. Patent No. 8,539,047 (the “’047 patent”) for construction, there are three main claim construction disputes:

First, Defendants assert that IOENGINE’s constructions of its proposed terms are incorrect because they would exclude “drivers.” Defendants are wrong because “drivers” are not part of the claimed “program code.” The specification and figures make clear that “drivers” are not embodiments of the invention and are separate, unclaimed preliminary software that do not perform the functions of “program code.”

Second, Defendants argue that Mr. McNulty disclaimed all use of the terminal’s processing power. This misreads the prosecution history. IOENGINE does not dispute that the portable device processor must play some role in executing program code, as the claims themselves set out. But that does not mean that the terminal processor plays *no* role.

Third, Defendants misread the claims as requiring the portable device processor to be enabled—without relying on the processing power of the terminal—to “receive” and “control” communications, and, in response to user interaction, to “cause”—again, without relying on the processing power of the terminal—communications to be sent across the network. However, the claims say nothing of “control,” and nothing in the claims or intrinsic record requires the portable device processor to “receive” or “control” communications, much less to do so entirely on its own. And while the claims do require that the portable device processor execute third program code—there is no dispute about this—that program code simply “causes a communication to be transmitted.” It does not require the portable device processor to, alone, manage the terminal’s network interface or the entire end-to-end communications session.

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