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Attorneys for Defendant
 DROPCAM, INC.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

E.DIGITAL CORPORATION,

 Plaintiff,

 v.

 DROPCAM, INC.,

 Defendant.

CASE NO.: 3:14-cv-04922-JST

**AMENDED JOINT CLAIM
 CONSTRUCTION AND
 PRE-HEARING STATEMENT
 (PATENT L.R. 4-3)**

 Judge: Honorable Jon S. Tigar
 Ctrm: 9
 Hearing: August 3, 2015
 Time: 2:00 p.m.

Pursuant to Local Patent Rule 4-3 and the Court's February 5, 2015, Scheduling Order ("Scheduling Order") (Doc. No. 43), and the Court's July 31, 2015, Order Granting Leave To File Amended Joint Claim Construction Statement (Doc. No. 70), Plaintiff e.Digital Corporation ("Plaintiff" or "e.Digital") and Defendant Dropcam, Inc. ("Defendant" or "Dropcam") provide the following Amended Joint Claim Construction and Pre-Hearing Statement in the above-entitled matter for U.S. Patent Nos. 8,306,514 ("the '514 patent"); 8,311,522 ("the '522 patent"); 8,311,523 ("the '523 patent"); 8,311,524 ("the '524 patent"); 8,315,618 ("the '618 patent"); and 8,315,619 ("the '619 patent") (collectively, the "Asserted Patents").

I. Agreed Upon Claim Constructions

The parties have agreed upon the following constructions for each of the claim terms and phrases listed below.

| Claim Term or Phrase | Agreed Upon Construction |
|---|---|
| "being selectable to provide" | "capable of being selected to provide" |
| "environment of the communication device" | "surroundings of the communication device within the detectable area of the communication device" |
| "social template" | "data structure associated with a social hierarchy and one or more social signatures" |
| "unique social signature" | "social signature associated with a specific social template at the time of processing" |
| "optical sensor" | plain and ordinary meaning |
| "accurate" | "capable of desired processing" |

II. Disputed Claim Constructions and Identification of Intrinsic and Extrinsic Evidence

The parties dispute the proper construction of certain claim terms. Below, Plaintiff and Defendant set forth each of the disputed claim terms, each party's proposed construction of each disputed term, together with an identification of all references from the specification or prosecution history that support that construction, and an identification of any extrinsic evidence known to the party on which it intends to rely either to support its proposed construction or to oppose any other party's proposed construction.

| | Claim Term or Phrase | Plaintiff's Proposed Construction and Supporting Evidence | Defendant's Proposed Construction and Supporting Evidence |
|----|----------------------|---|--|
| 1. | "social signature" | <p>"raw or processed data and/or other information based on sensors"</p> <p><u>Intrinsic Evidence:</u></p> <p>Specifications¹</p> <p><i>Figures: 1, 2, 3</i></p> <p><i>'522 Specification: Abstract; 1:29-58; 2:5-30; 2:66-3:7; 3:19-60; 4:14-29; 4:65-5:6; 5:19-6:3; 6:19-24; 7:4-65; 9:5-11:6; 11:16-14:34; 14:46-53; 15:29-57; 16:14-26; 17:51-18:18; 18:22-24; 18:44-19:33; 21:15-44; 22:41-67</i></p> <p>Claims</p> <p><i>'522 patent: 1, 2, 5, 8, 9, 13, 15, 17, 18, 22, 24</i></p> <p><i>'514 patent: 1, 5, 7, 8, 10, 14, 18, 21, 24, 25, 26, 30, 34, 36</i></p> <p><i>'523 patent: 1, 2, 4, 10, 11, 17, 19, 20, 21, 26</i></p> <p><i>'524 patent: 1, 2, 3, 4, 5, 10, 15, 16, 17</i></p> <p><i>'618 patent: 1, 2, 6, 7, 11, 13, 15, 16, 20, 22, 23, 24</i></p> <p><i>'619 patent: 1, 2, 4, 10, 11,</i></p> | <p>"combination of sensor data indicative of a type of activity"</p> <p><u>Intrinsic Evidence:</u></p> <p>Specification²</p> <p><i>Figures: 1, 2, 3</i></p> <p><i>'618 Specification: 9:23-29, 14:31-41, 14:63-66, 15:38-45, 15:45-51, 15:52-55, 16:15-24, 17:30-36, 18:54-60, Tables 1 and 2.</i></p> <p>Claims</p> <p><i>'514 patent: 1, 5, 7, 8, 10, 14, 18, 21, 24, 25, 26, 30, 34, and 36.</i></p> <p><i>'522 patent: 1, 2, 5, 8, 9, 13, 15, 17, 18, 22, and 24.</i></p> <p><i>'523 patent: 1, 2, 4, 10, 11, 17, 19, 20, 21, and 26.</i></p> <p><i>'524 patent: 1, 2, 3, 4, 5, 10, 15, 16, and 17.</i></p> <p><i>'618 patent: 1, 2, 6, 7, 11, 13, 15, 16, 20, 22, 23, and 24.</i></p> <p><i>'619 patent: 1, 2, 4, 10, 11, 17, 19, 20, 21, 26, 29, 30, and</i></p> |

¹ The specifications of each of the Asserted Patents contain word-for-word identical disclosures. For the sake of brevity and efficiency, Plaintiff cites specifically herein to the specification of the parent '522 patent. However, Plaintiff represents and hereby notifies the Court and Defendant that Plaintiff intends to rely on the exact same disclosures contained in the '514 patent, '523 patent, '524 patent, '618 patent and '619 patent, which specifications, again, contain exactly the same disclosures as the specification of the '522 patent.

² All supporting patent citations identified by Defendant Dropcam herein reference the specification of U.S. Patent No. 8,315,618. Dropcam reserves the right to rely upon corresponding disclosures contained in the specifications of each of the Asserted Patents. Dropcam similarly reserves the right to rely upon disclosures contained in the prosecution histories of each of the Asserted Patents corresponding to the citations identified herein.

| | | | |
|----|----|--|--|
| 1 | | 17, 19, 20, 21, 26, 29, 30, 31 | 31. |
| 2 | | <u>Extrinsic Evidence:</u> | <u>Extrinsic Evidence:</u> |
| 3 | | <i>The American Heritage</i> | Sworn testimony of Dr. Earl |
| 4 | | <i>Dictionary</i> (Fifth Ed. 2012) | Sacerdoti. |
| 5 | | (hereinafter referred to as | |
| 6 | | “AHD”) at pp. 217 (“data”), | |
| 7 | | 435 (“information”) | |
| 8 | | <i>Barron’s Dictionary of</i> | |
| 9 | | <i>Computer and Internet Terms</i> | |
| 10 | | (Eleventh Ed. 2013) | |
| 11 | | (hereinafter referred to as | |
| 12 | | “BDCIT”) at p. 124 (“data”) | |
| 13 | | Sworn testimony of the | |
| 14 | | inventor, Patrick Nunally | |
| 15 | 2. | “social hierarchy” | “ordered ranking of social |
| 16 | | “an arrangement of persons, | groups defined within each |
| 17 | | things, information and/or | social template” |
| 18 | | operations in a series of | |
| 19 | | levels” | |
| 20 | | <u>Intrinsic Evidence:</u> | <u>Intrinsic Evidence:</u> |
| 21 | | Specification: | Specification: |
| 22 | | <i>Figures: 3</i> | <i>Figures: 1, 2, 3</i> |
| 23 | | <i>’522 Specification: Abstract;</i> | <i>’618 Specification: 4:17-23,</i> |
| 24 | | <i>1:29-47; 1:59-2:4; 2:31-65;</i> | <i>6:12-21, 14:44-50, 15:13-16,</i> |
| 25 | | <i>3:24-42; 3:63-4:64; 5:34-59;</i> | <i>15:18-31, 15:45-51, 16:28-51,</i> |
| 26 | | <i>6:4-17; 6:36-7:3; 7:38-53;</i> | <i>17:4-12, 17:30-36, 17:13-16,</i> |
| 27 | | <i>8:10-34; 11:1-6; 14:4-45;</i> | <i>17:45-51, 18:23-28, and</i> |
| 28 | | <i>15:4-17:24; 17:44-50; 18:22-</i> | <i>Tables 1 and 2.</i> |
| | | <i>36; 20:13-21:44; 22:41-67</i> | |
| | | Claims | Claims |
| | | <i>’522 patent: 1, 3, 4, 8, 11, 12,</i> | <i>’514 patent: 1, 2, 3, 4, 5, 10,</i> |
| | | <i>17, 19, 23, 25, 26</i> | <i>14, 15, 16, 17, 20, 21, 26, 30,</i> |
| | | <i>’514 patent: 1, 2, 3, 4, 5, 10,</i> | <i>34, and 36.</i> |
| | | <i>14, 15, 16, 17, 20, 21, 26, 30,</i> | <i>’522 patent: 1, 3, 4, 8, 11, 12,</i> |
| | | <i>34, 36</i> | <i>17, 19, 23, 25, and 26.</i> |
| | | <i>’523 patent: 1, 3, 5, 6, 7, 8, 9,</i> | <i>’523 patent: 1, 3, 5, 6, 7, 8, 9,</i> |
| | | <i>19, 22</i> | <i>19, and 22.</i> |
| | | <i>’524 patent: 1, 5, 6</i> | <i>’524 patent: 1, 5, and 6.</i> |
| | | <i>’618 patent: 1, 3, 6, 9, 10, 15,</i> | <i>’618 patent: 1, 3, 6, 9, 10, 15,</i> |
| | | <i>17, 20, 22</i> | <i>17, 20, and 22.</i> |
| | | <i>’619 patent: 1, 3, 5, 6, 7, 8, 9,</i> | <i>’619 patent: 1, 3, 5, 6, 7, 8, 9,</i> |
| | | | <i>19, 22, and 31.</i> |

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|----|----|---------------------------------------|---------------------------------------|
| 1 | | 19, 22, 31 | File History |
| 2 | | <u>Extrinsic Evidence:</u> | U.S. Patent & Trademark |
| 3 | | <i>AHD</i> at 398 (“hierarchy”) | Office Prosecution Proceeding |
| 4 | | Sworn testimony of the | No. 13/047,163 for U.S. |
| 5 | | inventor, Patrick Nunally | Patent No. 8,315,618 - |
| 6 | | | Applicant |
| 7 | | | Arguments/Remarks Made in |
| 8 | | | an Amendment at pp. 3-5, |
| 9 | | | March 16, 2012. |
| 10 | | | <u>Extrinsic Evidence:</u> |
| 11 | | | <i>Chambers Concise Dictionary</i> |
| 12 | | | at p. 562 [DROPCAM_ |
| 13 | | | EDTL 00001055]. |
| 14 | | | Sworn testimony of Dr. Earl |
| 15 | | | Sacerdoti. |
| 16 | 3. | “sensor value | “range of measurements |
| 17 | | range” | between two values” |
| 18 | | Plain and ordinary meaning | <u>Intrinsic Evidence:</u> |
| 19 | | or, alternatively, “information | Specification |
| 20 | | representing sensor data | <i>Figures:</i> 1, 2, 3 |
| 21 | | above, below or between a | <i>'618 Specification:</i> 4:24-28, |
| 22 | | value(s)” | 9:41-46, 11:62-65, 12:6-13, |
| 23 | | <u>Intrinsic Evidence:</u> | 16:15-24, 19:22-26, 15:38-45, |
| 24 | | Specification | and Tables 1 and 2. |
| 25 | | <i>'522 Specification:</i> 15:43-57; | Claims |
| 26 | | 16:14-26; 22:41-67 | <i>'514 patent:</i> 1, 5, 10, 14, 21, |
| 27 | | Claims | 26, 30, 34, 36. |
| 28 | | <i>'522 patent:</i> 1, 8, 17 | <i>'522 patent:</i> 1, 8, and 17. |
| | | <i>'514 patent:</i> 1, 5, 10, 14, 21, | <i>'523 patent:</i> 1, 4, 19, and 21. |
| | | 26, 30, 34, 36 | <i>'524 patent:</i> 1 and 3. |
| | | <i>'523 patent:</i> 1, 4, 19, 21 | <i>'618 patent:</i> 1, 6, 15, 20, and |
| | | <i>'524 patent:</i> 1, 3 | 22. |
| | | <i>'618 patent:</i> 1, 6, 15, 20, 22 | <i>'619 patent:</i> 1, 4, 19, 21, and |
| | | <i>'619 patent:</i> 1, 4, 19, 21, 29 | 29. |
| | | <u>Extrinsic Evidence:</u> | <u>Extrinsic Evidence:</u> |
| | | <i>AHD</i> at p. 751 (“sensor”) | Sworn testimony of Dr. Earl |
| | | <i>MWD</i> at pp. 596 (“range”), | Sacerdoti. |
| | | 656 (“sensor”), 797-798 | |
| | | (“value”) | |
| | | <i>BDCIT</i> at p. 406 (“range”) | |

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|----|----|--|---|
| 1 | | Sworn testimony of the inventor, Patrick Nunally | |
| 2 | | | |
| 3 | 4. | “information” | Plain and ordinary meaning |
| 4 | | | “a report about a single event that results from comparison of sensor data with social templates” |
| 5 | | <u>Intrinsic Evidence:</u> | <u>Intrinsic Evidence:</u> |
| 6 | | Specification | Specification |
| 7 | | <i>Figures: 3</i> | <i>Figures: 1, 2, 3</i> |
| 8 | | <i>'522 Specification: Abstract;</i> | <i>'618 Specification: at 1:15-20,</i> |
| 9 | | <i>1:29-47; 1:59-2:4; 2:31-65;</i> | <i>2:40-47, 3:52-55, 4:17-23,</i> |
| 10 | | <i>3:24-42; 3:63-4:64; 5:34-59;</i> | <i>6:12-21, 10:46-49, 11:13-17,</i> |
| 11 | | <i>6:4-17; 6:36-7:3; 7:38-53;</i> | <i>14:32-41, 14:44-50, 14:63-66,</i> |
| 12 | | <i>8:10-34; 11:1-6; 14:4-45;</i> | <i>16:24-27, 15:13-16, 15:18-31,</i> |
| 13 | | <i>15:4-17:24; 17:44-50; 18:22-</i> | <i>16:28-51, 17:4-12, 17:30-36,</i> |
| 14 | | <i>36; 20:13-21:44; 22:41-67</i> | <i>17:13-16, 17:45-51, 18:23-28,</i> |
| 15 | | Claims | <i>17:45-51, 18:54-60, 18:64-</i> |
| 16 | | <i>'522 patent: 1, 3, 4, 8, 11, 12,</i> | <i>19:4, and Tables 1 and 2.</i> |
| 17 | | <i>17, 19, 23, 25, 26</i> | Claims |
| 18 | | <i>'514 patent: 14, 18, 20, 21,</i> | <i>'514 patent: 1, 5, 6, 7, 8, 9,</i> |
| 19 | | <i>22, 23, 24, 25, 26, 30, 34, 36</i> | <i>10, 14, 18, 20, 21, 22, 23, 24,</i> |
| 20 | | <i>'523 patent: 1, 3, 10, 19, 22,</i> | <i>25, 26, 30, 34, and 36.</i> |
| 21 | | <i>23, 24, 25, 26</i> | <i>'522 patent: 1, 2, 3, 4, 8, 9,</i> |
| 22 | | <i>'524 patent: 1, 2, 3, 10</i> | <i>11, 12, 17, 18, 19, 23, 25, and</i> |
| 23 | | <i>'618 patent: 1, 3, 6, 9, 15, 16,</i> | <i>26.</i> |
| 24 | | <i>20, 22</i> | <i>'523 patent: 1, 2, 3, 5, 10, 19,</i> |
| 25 | | <i>'619 patent: 1, 2, 3, 5, 10, 19,</i> | <i>20, 22, 23, 24, 25, and 26.</i> |
| 26 | | <i>22, 23, 24, 25, 26</i> | <i>'524 patent: 1, 2, 3, 4, 5, 6, 7,</i> |
| 27 | | <u>Extrinsic Evidence:</u> | <i>8, 9, and 10.</i> |
| 28 | | <i>AHD at p. 435 (“information”)</i> | <i>'618 patent: 1, 2, 3, 6, 7, 9,</i> |
| | | <i>MWD at p. 372</i> | <i>10, 15, 16, 17, 20, and 22.</i> |
| | | <i>(“information”)</i> | <i>'619 patent: 1, 2, 3, 5, 10, 19,</i> |
| | | Sworn testimony of the inventor, Patrick Nunally | <i>20, 22, 23, 24, 25, 26, 29, and</i> |
| | | | <i>30.</i> |
| | | | <u>Extrinsic Evidence:</u> |
| | | | Sworn testimony of Dr. Earl Sacerdoti. |
| | 5. | “provide/ provides/ providing | Plain and ordinary meaning |
| | | | “send/sends/sending information in varying levels of granularity” |

| | | | |
|----|---|--|--|
| 1 | differing levels of information” | <p><u>Intrinsic Evidence:</u></p> <p>Specification</p> <p><i>Figures: 3</i></p> <p><i>’522 Specification:</i> Abstract; 1:29-47; 1:59-2:4; 2:31-65; 3:24-42; 3:63-4:64; 5:34-59; 6:4-17; 6:36-7:3; 7:38-53; 8:10-34; 11:1-6; 14:4-45; 15:4-17:24; 17:44-50; 18:22-36; 20:13-21:44; 22:41-67</p> <p>Claims</p> <p><i>’522 patent:</i> 1, 3, 4, 8, 11, 12, 17, 19, 23, 25, 26</p> <p><i>’514 patent:</i> 1, 5, 10, 14, 20, 21, 26, 30, 34, 36</p> <p><i>’523 patent:</i> 1, 3, 5, 19, 22</p> <p><i>’524 patent:</i> 1, 6</p> <p><i>’618 patent:</i> 1, 3, 6, 9, 10, 15, 17, 20, 22</p> <p><i>’619 patent:</i> 1, 3, 5, 6, 7, 8, 9, 19, 22</p> <p><u>Extrinsic Evidence:</u></p> <p><i>AHD</i> at pp. 239 (“differ,” “different”), 435 (“information”), 483 (“level”), 671 (“provide”)</p> <p><i>MWD</i> at pp. 200 (“differ,” “different”), 372 (“information”), 414 (“level”)</p> <p>Sworn testimony of the inventor, Patrick Nunally</p> | <p><u>Intrinsic Evidence:</u></p> <p>Specification</p> <p><i>Figures: 1, 2, 3</i></p> <p><i>’618 Specification:</i> at 1:15-20, 2:40-47, 3:52-55, 4:17-23, 6:12-21, 10:46-49, 14:32-41, 14:44-50, 14:55-62, 17:45-51, 18:23-28, 15:13- 16, 15:18-31, 16:28-51, 17:4-12, 17:30-36, 17:13-16, and Tables 1 and 2.</p> <p>Claims</p> <p><i>’514 patent:</i> 1, 5, 10, 14, 21, 26, 30, 34, and 36.</p> <p><i>’522 patent:</i> 1, 3, 4, 8, 11, 12, 17, 19, 23, 25, and 26.</p> <p><i>’523 patent:</i> 1, 3, 5, 19, and 22.</p> <p><i>’524 patent:</i> 1 and 6.</p> <p><i>’618 patent:</i> 1, 3, 6, 9, 10, 15, 17, 20, and 22.</p> <p><i>’619 patent:</i> 1, 3, 5, 6, 7, 8, 9, 19, and 22.</p> <p><u>Extrinsic Evidence:</u></p> <p>Sworn testimony of Dr. Earl Sacerdoti.</p> |
| 23 | 6. “provided.../ provides/ providing an update” | <p>Plain and ordinary meaning</p> <p><u>Intrinsic Evidence:</u></p> <p>Specification</p> <p><i>’522 Specification:</i> Abstract; 1:29-47; 1:59-2:4; 2:31-65; 3:24-42; 3:63-4:64; 5:34-59;</p> | <p>“sent/sends/sending information indicating a user’s status”</p> <p><u>Intrinsic Evidence:</u></p> <p>Specification</p> <p><i>Figures: 1, 2, 3</i></p> <p><i>’618 Specification:</i> at 1:15-20, 2:40-47, 3:52-55, 4:17-23,</p> |

| | | | |
|----|--|--|--|
| 1 | | 6:4-17; 6:36-7:3; 7:38-53; 8:10-34; 11:1-6; 14:4-45; 2 | 6:12-21, 10:46-49, 14:32-41, 14:44-50, 14:55-62, 17:45-51, 18:23-28, 15:13-16, 15:18-31, 16:28-51, 17:4-12, 17:30-36, 17:13-16, 20:42-50, 20:53- 21:3, and Tables 1 and 2. |
| 3 | | 36; 20:13-21:44; 22:41-67 | |
| 4 | | Claims | Claims |
| 5 | | '522 patent: N/A | '514 patent: 3, 4, 16, 17, 30, and 32. |
| 6 | | '514 patent: 1, 2, 3, 4, 14, 15, 16, 17, 30, 31, 32 | '523 patent: 8, 23, and 25. |
| 7 | | '523 patent: 4, 6, 7, 8, 9, 23, 24, 25 | '524 patent: 7 and 9. |
| 8 | | '524 patent: 7, 8, 9 | '619 patent: 6, 7, 8, 9, 23, 24, and 25. |
| 9 | | '618 patent: N/A | |
| 10 | | '619 patent: 6, 7, 8, 9, 23, 24, 25 | File History |
| 11 | | <u>Extrinsic Evidence:</u> | U.S. Patent & Trademark Office Prosecution Proceeding No. 13/047,206 for U.S. Patent No. 8,306,514 – Applicant Arguments/Remarks Made in an Amendment at pp. 14-16, March 22, 2012. |
| 12 | | AHD at pp. 671 (“provide”), 891 (“update”) | <u>Extrinsic Evidence:</u> |
| 13 | | BDCIT at pp. 316 (“microblogging”), 459 (“social networking site”) | <i>Dictionary of Computer and Internet Terms</i> , at pp. 309, 443 [DROPCAM_EDTL_000010 39-00001040]. |
| 14 | | Sworn testimony of the inventor, Patrick Nunally | Sworn testimony of Dr. Earl Sacerdoti. |

III. **Identification of Significant Claim Terms**

The parties hereby identify the following terms, in no particular order, whose construction will be most significant to the resolution of this case:

1. “social signature”
2. “social hierarchy”
3. “sensor value range”

4. “information”

5. “provide/ provides/ providing differing levels of information”

6. “provided.../ provides/ providing an update”

Plaintiff, e.Digital, does not believe construction of any of the above terms will be case or claim dispositive at this time.

IV. Anticipated Length of Time Necessary for Claim Construction Hearing

The parties anticipate they will need three (3) hours for the Claim Construction Hearing.

V. Witnesses

Neither party intends to call witnesses at the Claim Construction Hearing.

HANDAL & ASSOCIATES

Dated: July 31, 2015

By: /s/ Gabriel G. Hedrick

Anton N. Handal
Pamela C. Chalk
Gabriel G. Hedrick
Attorneys for Plaintiff
e.Digital Corporation

Dated: July 31, 2015

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

By: /s/ Stefani E. Shanberg

Stefani E. Shanberg
Attorneys for Defendant
DROPCAM, INC.

ATTESTATION CLAUSE

I, Madeleine E. Greene, am the ECF User whose identification and password are being used to file this Joint Claim Construction and Pre-Hearing Statement. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that Pamela Chalk of Handal & Associates has concurred in this filing.

Dated: July 31, 2015

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

By: /s/ Madeleine E. Greene
Madeleine E. Greene

Attorneys for Defendant
DROPCAM, INC.

CERTIFICATE OF SERVICE

I hereby certify that on July 31, 2015, I electronically filed the foregoing with the Clerk of the court using the CM/ECF system which will send notification of such filing to counsel of record.

By: /s/ Madeleine E. Greene
Madeleine E. Greene