

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

EXPRESS MOBILE, INC.,

Plaintiff,

v.

eGROVE SYSTEMS CORPORATION,

Defendant.

Civil Action No. 1:17-cv-703-VAC-SRF

JOINT CLAIM CONSTRUCTION CHART

Pursuant to Paragraph 8 of the Court's October 10, 2017 Scheduling Order (D.I. 18), the parties in the above-captioned matter hereby submit their Joint Claim Construction Chart for U.S. Patent Nos. 6,546,397 and 7,594,168, including the construction of claim terms on which the parties agree, the claim terms that the parties believe require construction and each side's proposed construction.

TERMS ON WHICH THE PARTIES AGREE

No.	Patent Term	Agreed Construction
1.	contemporaneously ('397 patent, cl. 37)	happening at the same period of time
2.	substantially contemporaneously ('397 patent, cl. 1 and 2)	happening at the same period of time from a human perspective
3.	transformation ('397 patent, cl. 11) ('168 patent, cl. 1)	the changing of an object from one state to another based on a timer control, subject to user settings

4.	internal database (’397 patent, cl. 37)	a database internal to the build tool and distinct from the external database (see separate construction of “database” term)
5.	external database (’397 patent, cl. 37)	a database external to the build tool (see separate construction of “database” term)
6.	settings (’397 patent, cl. 1, 2, and 37)	an attribute of an object available for selection

PROPOSED TERMS AND CONSTRUCTIONS

No.	Patent Term	Plaintiff’s Proposed Construction	Defendant’s Proposed Construction
1.	virtual machine (’397 patent, cl. 1, 2, and 37)	abstract machine that is not built in hardware but is emulated in software	<p>a software which implements a standardized "virtual" machine language and set of system calls, implemented as standardized libraries, having the same general characteristics and defined at the same level of abstraction, as real machine languages and operating system calls including:</p> <p>1. Local, directly addressable operand storage. This is often in the form of a small set of registers, although a pushdown operand stack has also been used.</p> <p>2. A large random access main memory that is linearly addressed. Alternatively, memory may be divided into multiple regions, each of which is linearly addressed. Data are loaded and stored from/to main memory regions via addresses constructed with one of several addressing modes.</p> <p>3. Arithmetic and logic instructions that take input operands from the registers, an operand stack, and/or main memory and produce results that are placed in registers, the operand stack, or main memory.</p>

			<p>4. Control flow instructions that alter the sequence of instructions being executed. These instructions jump or branch to a program address specified by the instruction. Control flow is specified at instruction level granularity; that is, the operation of each control flow instruction stands alone.</p> <p>5. Operating system call and return instructions are provided for security and protection. User processes are not allowed to directly control system input and output nor directly access other hardware resources, including arbitrary locations in physical main memory. Control of I/O and hardware resources can only be done under the supervision of the operating system to make sure that the user process has adequate privileges to perform a requested operation. Once called, the operating system provides access to hardware resources, only if the user process is allowed to perform the requested accesses.</p>
2.	<p>at least one run time file</p> <p>(’397 patent, cl. 1 and 2)</p>	one or more files that are downloaded or created when a browser is pointed to a web page or website	one or more files, including a run time engine, that are downloaded or created when a browser is pointed to a web page or website
3.	<p>runtime engine</p> <p>run time engine</p> <p>(’397 patent, cl. 24)</p> <p>(’168 patent, cl. 1)</p>	a file that is executed at runtime that facilitates the retrieval of information from the database and generates commands to display a web page or website	“a file containing code that can be executed, i.e., compiled code, which when executed at runtime, facilitates the retrieval of information from the database and generates virtual machine commands to display a web page or website.”
4.	<p>database</p> <p>(’397 patent, cl. 1, 2, 3, 9, 14, 23, and 37)</p> <p>(’168 patent, cl. 1)</p>	an electronic information storage system offering data storage and retrieval	an electronic information storage system offering data storage and retrieval and that stores information on a record-by-record basis, each record divided into one or more fields

5.	a web browser with access to a runtime engine is configured to generate the web-site from the objects and style data from the provided database ('168 patent, cl. 1)	a web browser configured to generate, using a runtime engine (see separate construction of "runtime engine"), the web-site from the objects and style data extracted from the provided database (see separate construction of "database")	a web browser configured to generate, using a runtime engine, the web-site from the objects and style data extracted from the provided database (see separate construction of "runtime engine")
6.	one run time file utilizes information stored in said database ('397 patent, cl. 1)	no construction needed separate from proposed constructions for "at least one run time file" and "database"	Insolubly ambiguous and therefore indefinite
7.	multidimensional array ('397 patent, cl. 3 and 4) ('168 patent, cl. 1)	an indexed set of related elements, wherein each element is addressed by a set of two or more indices	a uniquely identifiable indexed set of related elements, wherein each element is addressed by a set of two or more indices, each index corresponding to a dimension of the array
8.	one or more run time files ('397 patent, cl. 37)	one or more files that are downloaded or created when a browser is pointed to a web page or website	
9.	storing information representative of said one or more user selected settings in a database ('397 patent, cl. 1)	storing data in a database, which data pertains to one or more attributes of an object available for selection by a user	"storing information representative of a user selected attribute for an object in a database separately from run-time code in a manner that the user can change the attributes of the web page without requiring a recompilation of the run-time code" In the alternative, this claim term is insolubly ambiguous.
10.	"a web browser with access to a runtime engine is configured to generate the web-site from the	See above proposed construction for "a web browser with access to a runtime engine is configured to generate the web-site from the objects and style data extracted from the provided	Each of these elements is a distinct structural component of system claim 1 of the '168 patent and all apparatus claims of the '397 patent.

	objects and style data extracted from the provided database” (’168 patent, cl. 1) and “a browser to generate a display” (’397 patent, cl. 2)	database” Plaintiff does not believe construction is necessary for “a browser to generate a display”	
11.	timeline or time line	independent asynchronous process that defines the values for an object, including its appearance, animation, speed, and/or resolution at one or more defined times	an independent asynchronous process that defines the existence of a given text button or image object and begins at the time a given web page makes its appearance, either through an immediate draw or through a transition animation

The parties reserve their rights to continue to meet and confer and to amend proposed constructions, agree to constructions, and/or add or delete intrinsic and/or extrinsic evidence prior to serving the Initial Claim Construction Brief on May 8, 2018.

Respectfully submitted,

Dated: April 6, 2018

By: /s/ Timothy Devlin
Timothy Devlin (#4241)
tdevlin@devlinlawfirm.com
James M Lennon (#4570)
jlennon@devlinlawfirm.com
Robert Kiddie (*pro hac vice*)
Texas Bar No. 24060092
rkiddie@devlinlawfirm.com
DEVLIN LAW FIRM LLC
1306 N. Broom Street, 1st Floor
Wilmington, Delaware 19806
Telephone: (302) 449-9010
Facsimile: (302) 353-4251

*Attorneys for Plaintiff
Express Mobile, Inc.*

By: /s/ Jared T. Green
Jared T. Green (#5179)
jtgreen@svglaw.com
SEITZ, VAN OGTROP & GREEN, P.A.
222 Delaware Avenue, Suite 1500
P.O. Box 68
Wilmington, Delaware 19899
Telephone: (302) 888-0600

Amit Agarwal (CA Bar. 294269) (*pro hac vice*)
P.O. Box 10354
Tampa, FL 33679
813-955-3949
ama7386@gmail.com

*Attorneys for Defendant
eGrove Systems Corp.*

CERTIFICATE OF SERVICE

I, Timothy Devlin, hereby certify that on April 6, 2018, a true copy of the above document was served via electronic mail on the counsel of record for Defendant.

/s/ Timothy Devlin
Timothy Devlin #4241