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**Sent:** Wednesday, June 28, 2023 1:31 PM  
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**Cc:** Kristie Davis; Lily Reznik  
**Subject:** RE: Preliminary Constructions - Ozmo Licensing v. Dell, No. 6:22-cv-642

**⚠ EXTERNAL MESSAGE**

Counsel,

My apologies—that was a typographical error on my part. Please use the constructions below for “overlay protocol.”

| No. | Claim Term                                                                                                                                                                                                                                                             | Defendant Dell’s Construction                                                                                           | Plaintiff Ozmo’s Construction                                                                                                                                                           | Preliminary Construction                                                                                                                                                                |
|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4   | “overlay protocol”<br><br><i>’814 patent, claim 1</i><br><i>’991 patent, claims 1, 19</i><br><i>’906 patent, claims 1, 4</i><br><i>’934 patent, claims 1, 4, 7</i><br><i>’504 patent, claims 1, 4</i><br><i>’659 patent, claim 4</i><br><br>[proposed by both parties] | “a second protocol that has elements that are reuses of elements of a first protocol to provide one or more advantages” | “a protocol governing a second network, which protocol has aspects in common with a first network protocol to reduce interference such that the second and first networks can co-exist” | “a protocol governing a second network, which protocol has aspects in common with a first network protocol to reduce interference such that the second and first networks can co-exist” |

Thanks,  
Beth

**Elizabeth Knuppel**  
Law Clerk to the Honorable Alan D Albright  
United States District Court, Western District of Texas

**From:** Karl Rupp <krupp@soreylaw.com>  
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**Cc:** Kristie Davis <Kristie\_Davis@txwd.uscourts.gov>; Lily Reznik <Lily\_Reznik@txwd.uscourts.gov>  
**Subject:** RE: Preliminary Constructions - Ozmo Licensing v. Dell, No. 6:22-cv-642

**CAUTION - EXTERNAL:**

Beth,

Because I believe it likely to be merely a typographical omission rather than intentional, I wanted to call one issue to your attention in advance of our hearing this afternoon as to term number 4 below, "overlay protocol." For both Plaintiff Ozmo's proposed construction and the Court's Preliminary Construction, the word "aspects" is omitted from the chart below. In our proposal, which tracked the Court's previous ruling in the Acer litigation, we urged the construction as "a protocol governing a second network, which protocol has *aspects* in common with a first network protocol to reduce interference such that the second and first networks can co-exist." Can you please advise whether the omission was intentional or inadvertent ?

Best,  
Karl



Karl Rupp, Partner

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**From:** Elizabeth Knuppel <[Elizabeth\\_Knuppel@txwd.uscourts.gov](mailto:Elizabeth_Knuppel@txwd.uscourts.gov)>

**Sent:** Tuesday, June 27, 2023 6:47 PM

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**Subject:** Preliminary Constructions - Ozmo Licensing v. Dell, No. 6:22-cv-642

Counsel,

For the *Markman* hearing **tomorrow at 2:30 p.m.** in Ozmo Licensing v. Dell, No. 6:22-cv-642, the Court provides the following preliminary constructions. The parties are welcome to argue for their originally proposed construction. However, the Court will usually not adopt a party's originally proposed construction over the preliminary construction.

Instead, the Court encourages arguments that fine-tune the preliminary constructions. The Court also encourages the parties to narrow the number of claim terms they wish to argue at the hearing.

Of the below terms, please let me know which terms each side would like to argue by **tomorrow at 10:00 a.m.** Each side may email their list separately copying counsel or submit a joint list. If submitting a joint list, please indicate which party wants to argue each term. Unless the parties jointly agree on a sequence of terms for argument, the Court will decide the sequence. Also by **tomorrow at 10:00 a.m.**, please submit any slides the parties wish to use at the *Markman* hearing (and CC the other side).

To assist our court reporters (Kristie Davis and Lily Reznik, CC'd), please email them a copy of your slides, even if only a draft, as soon as your slides contain the difficult-to-transcribe words that you might articulate. When you email the court reporters, there is no need to CC the other side or the Court.

If you plan to have any younger associates argue, please introduce them when you state your appearances.

| No. | Claim Term                                                                                                                                                                                                                                                                                                                                                                                                                          | Defendant Dell's Construction                                                      | Plaintiff Ozmo's Construction                                                                       | Preliminary Construction                                                                            |
|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|
| 1   | <p>"WLAN," "wireless local area network"</p> <p><i>'814 patent, claim 3</i></p> <p>"wireless LAN"</p> <p><i>'991 patent, claims 3-5</i></p> <p>"wireless local area network (WLAN)"</p> <p><i>'906 patent, claims 1, 4</i><br/><i>'934 patent, claims 1, 4, 7, 11</i><br/><i>'504 patent, claims 1, 4, 7, 11</i></p> <p>"WLAN"</p> <p><i>'659 patent, claims 1, 4, 11, 12, 21-23, 25, 26, 28</i></p> <p>[proposed by Defendant]</p> | <p>"a wireless network with a typical coverage range on the order of 300 feet"</p> | <p>Plain and ordinary meaning</p>                                                                   | <p>Plain and ordinary meaning</p>                                                                   |
| 2   | <p>"WPAN," "wireless personal area network ('WPAN')"</p> <p><i>'814 patent, claim 5</i><br/><i>'991 patent, claims 11-12, 19-20</i><br/><i>'906 patent, claims 1, 4, 6, 7, 9, 10, 12</i></p>                                                                                                                                                                                                                                        | <p>"a wireless network with a typical coverage range on the order of 30 feet"</p>  | <p>"a short-range wireless network usable to connect peripherals to devices in close proximity"</p> | <p>"a short-range wireless network usable to connect peripherals to devices in close proximity"</p> |

|   |                                                                                                                                                                                                                                                            |                                                                                                                                |                                                                                                                                                                                        |                                                                                                                                                                                        |
|---|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   | <p>'934 patent, claims 1, 4, 7-9, 12</p> <p>'504 patent, claims 1, 4, 7-9, 12, 14</p> <p>"WPAN"</p> <p>'659 patent, claims 1, 4, 6, 14, 15</p> <p>[proposed by both parties]</p>                                                                           |                                                                                                                                |                                                                                                                                                                                        |                                                                                                                                                                                        |
| 3 | <p>"802.11x"</p> <p>'814 patent, claim 4</p> <p>'991 patent, claims 7, 19</p> <p>'906 patent, claims 1, 4</p> <p>'934 patent, claims 1, 4, 11</p> <p>'504 patent, claims 1, 4, 11</p> <p>'659 patent, claims 13, 24, 27</p> <p>[proposed by Defendant]</p> | <p>Indefinite</p> <p><b>Alternatively:</b> "all amendments to 802.11 as of March 14, 2006"</p>                                 | <p>Plain and ordinary meaning</p>                                                                                                                                                      | <p>All versions to 802.11 as of March 14, 2006</p>                                                                                                                                     |
| 4 | <p>"overlay protocol"</p> <p>'814 patent, claim 1</p> <p>'991 patent, claims 1, 19</p> <p>'906 patent, claims 1, 4</p> <p>'934 patent, claims 1, 4, 7</p> <p>'504 patent, claims 1, 4</p> <p>'659 patent, claim 4</p> <p>[proposed by both parties]</p>    | <p>"a second protocol that has elements that are reuses of elements of a first protocol to provide one or more advantages"</p> | <p>"a protocol governing a second network, which protocol has in common with a first network protocol to reduce interference such that the second and first networks can co-exist"</p> | <p>"a protocol governing a second network, which protocol has in common with a first network protocol to reduce interference such that the second and first networks can co-exist"</p> |
| 5 | <p>"at least partially disable the wireless connection"</p> <p>'906 patent, claims 1, 4</p> <p>'934 patent, claims 1, 4</p> <p>'504 patent, claims 1, 4</p> <p>[proposed by both parties]</p>                                                              | <p>"at least partially do not maintain the wireless connection"</p>                                                            | <p>Plain and ordinary meaning</p>                                                                                                                                                      | <p>Plain and ordinary meaning</p>                                                                                                                                                      |

|   |                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|---|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 6 | <p>“disable the second connection”</p> <p><i>’659 patent, claim 6</i></p> <p>[proposed by Defendant]</p>                                                                                                                                                                                                                                                                                                                                                | <p>“do not maintain the second connection”</p>                                                                                                                                                                                                                                                                                                                                                                                        | <p>Plain and ordinary meaning</p>                                                                                                                                                                                                              | <p>Plain and ordinary meaning</p>                                                                                                                                                                                                                                                                                                                                                                                                     |
| 7 | <p>“the disabling,” “the at least part is disabled”</p> <p><i>’934 patent, claim 2</i><br/><i>’504 patent, claim 2</i></p> <p>[proposed by Defendant]</p>                                                                                                                                                                                                                                                                                               | <p>Indefinite</p>                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>Plain and ordinary meaning</p>                                                                                                                                                                                                              | <p>Not indefinite; plain and ordinary meaning, wherein “the disabling” and “the at least part is disabled” refer to the limitation “wherein the WPAN protocol provides for the first wireless device to disable at least a part of said coordination following a start of inactivity time.”</p>                                                                                                                                       |
| 8 | <p>“logic to coordinate a mutually agreeable inactivity period”</p> <p><i>’814 patent, claim 5</i><br/><i>’991 patent, claims 11, 12, 20</i></p> <p>[proposed by Defendant]</p>                                                                                                                                                                                                                                                                         | <p>Subject to 35 U.S.C. § 112(f)</p> <p>Function: “coordinate a mutually agreeable inactivity period”</p> <p>Structure: none (indefinite)</p>                                                                                                                                                                                                                                                                                         | <p>Subject to 35 U.S.C. § 112(f)</p> <p>Function: “coordinate a mutually agreeable inactivity period”</p> <p>Structure: processing unit 28 executing algorithms at <i>’814 patent</i>, col. 12, ln. 13 to col. 13, ln. 14, and equivalents</p> | <p>Subject to 35 U.S.C. § 112(f)</p> <p>Function: “coordinate a mutually agreeable inactivity period”</p> <p>Structure: processing unit 28 executing algorithms at <i>’814 patent</i>, col. 12, ln. 13 to col. 13, ln. 14, and equivalents</p>                                                                                                                                                                                        |
| 9 | <p>“logic for data forwarding between an originating node that is a node in of one of the first and second networks and a destination node that is a node in of the other of the first and second networks, the logic for data forwarding including logic for processing a data packet from the originating node to identify an address of the destination node in the data packet and using that address to transmit data into the second network”</p> | <p>Subject to 35 U.S.C. § 112(f)</p> <p>Function: “data forwarding between an originating node that is a node in of one of the first and second networks and a destination node that is a node in of the other of the first and second networks, the logic for data forwarding including logic for processing a data packet from the originating node to identify an address of the destination node in the data packet and using</p> | <p>Not subject to 35 U.S.C. § 112(f)</p> <p>Plain and ordinary meaning</p>                                                                                                                                                                     | <p>Subject to 35 U.S.C. § 112(f)</p> <p>Function: “data forwarding between an originating node that is a node in of one of the first and second networks and a destination node that is a node in of the other of the first and second networks, the logic for data forwarding including logic for processing a data packet from the originating node to identify an address of the destination node in the data packet and using</p> |

|    |                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                            |
|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    | <p><i>'991 patent, claim 19</i></p> <p>[proposed by Defendant]</p>                                                                                                                                                                                                                                  | <p>that address to transmit data into the second network"</p> <p>Structure: processing unit 28 executing an algorithm to read the IP address on incoming packets and forward the packets to that IP address</p>                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                            | <p>that address to transmit data into the second network"</p> <p>Structure: processing unit 28 executing an algorithm to read the IP address on incoming packets and forward the packets to that IP address</p>                                                                                                                                                            |
| 10 | <p>"logic for uniquely identifying the destination node from data received from the originating node such that the network-enabled hub can use that data to transmit data into the second wireless network"</p> <p><i>'814 patent, claim 11</i></p> <p>[proposed by Defendant]</p>                  | <p>Subject to 35 U.S.C. § 112(f)</p> <p>Function: "uniquely identifying the destination node from data received from the originating node such that the network-enabled hub can use that data to transmit data into the second wireless network"</p> <p>Structure: processing unit 28 executing an algorithm to read the IP address on incoming packets and forward the packets to that IP address and equivalents</p> | <p>Subject to 35 U.S.C. § 112(f)</p> <p>Function: "uniquely identifying the destination node from data received from the originating node such that the network-enabled hub can use that data to transmit data into the second wireless network"</p> <p>Structure: processing unit 28 and algorithms at '814 patent, col. 7, ln. 52 to col. 8, ln. 15, and equivalents</p> | <p>Subject to 35 U.S.C. § 112(f)</p> <p>Function: "uniquely identifying the destination node from data received from the originating node such that the network-enabled hub can use that data to transmit data into the second wireless network"</p> <p>Structure: processing unit 28 and algorithms at '814 patent, col. 7, ln. 52 to col. 8, ln. 15, and equivalents</p> |
| 11 | <p>"wherein the network-enabled hub and the device include logic, in one or both of the network-enabled hub and the device, for initiating device discovery by sending broadcast discovery requests on a pre-defined channel"</p> <p><i>'991 patent, claim 9</i></p> <p>[proposed by Defendant]</p> | <p>Indefinite</p>                                                                                                                                                                                                                                                                                                                                                                                                      | <p>Not subject to 35 U.S.C. § 112(f); plain and ordinary meaning</p> <p><b>Alternatively,</b></p> <p>Function: "initiating device discovery by sending broadcast discovery requests on a pre-defined channel"</p> <p>Structure: processing unit 28/24, including algorithms at '814 patent, col. 13, ln. 16 to col. 14, ln. 27 and equivalents</p>                         | <p>Subject to 35 U.S.C. § 112(f)</p> <p>Function: "initiating device discovery by sending broadcast discovery requests on a pre-defined channel"</p> <p>Structure: processing unit 28/24, including algorithms at '814 patent, col. 13, ln. 16 to col. 14, ln. 27 and equivalents</p>                                                                                      |
| 12 | <p>"wherein the network-enabled hub and the device include logic, in</p>                                                                                                                                                                                                                            | <p>Indefinite</p>                                                                                                                                                                                                                                                                                                                                                                                                      | <p>Not subject to 35 U.S.C. § 112(f); plain and ordinary meaning</p>                                                                                                                                                                                                                                                                                                       | <p>Subject to 35 U.S.C. § 112(f)</p>                                                                                                                                                                                                                                                                                                                                       |

|                                                                                                                                                                                                                 |  |                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                              |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| one or both of the network-enabled hub and the device, for indicating characteristics and/or state of the network-enabled hub and/or device”<br><br><i>’991 patent, claim 10</i><br><br>[proposed by Defendant] |  | <b>Alternatively,</b><br>Function: “indicating characteristics and/or state of the network-enabled hub and/or device”<br><br>Structure: processing unit 28 and/or 24 and algorithms at ‘814 patent, col. 13, ln. 38 to col. 14, ln. 3 and equivalents | Function: “indicating characteristics and/or state of the network-enabled hub and/or device”<br><br>Structure: processing unit 28 and/or 24 and algorithms at ‘814 patent, col. 13, ln. 38 to col. 14, ln. 3 and equivalents |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Thanks,  
Beth

**Elizabeth Knuppel**

Law Clerk to the Honorable Alan D Albright  
United States District Court, Western District of Texas

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