

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

EMERGING AUTOMOTIVE LLC,

Plaintiff,

v.

KIA CORPORATION, ET AL.,

Defendants.

Civil Action No. 2:23-cv-0437-JRG
(Lead Case)

EMERGING AUTOMOTIVE LLC,

Plaintiff,

v.

TOYOTA MOTOR CORP., ET AL.,

Defendants.

Civil Action No. 2:23-cv-0434-JRG
(Member Case)

P.R. 4-3 JOINT CLAIM CONSTRUCTION STATEMENT

Pursuant to Local P.R. 4-3 and the Court’s Docket Control Order (Dkt. No. 40), Plaintiff Emerging Automotive LLC (“Plaintiff” or “Emerging Auto”), Defendants Toyota Motor Corporation, Toyota Motor North America, Inc., and Toyota Motor Sales, U.S.A., Inc. (“Toyota Defendants” or “Toyota”), and Defendants Kia Corporation and Kia America, Inc. (“Kia Defendants” or “Kia”) (collectively, “Parties”) submit this Joint Claim Construction and Prehearing Statement with regard to the following patents: U.S. Patent No. 10,407,026 (the “’026 patent”), U.S. Patent No. 11,738,659 (the “’659 patent”), U.S. Patent No. 9,365,188 (the “’188 patent”), and U.S. Patent No. 9,171,268 (the “’268 patent”).¹

¹ Kia joins only as to the ’026 patent, ’659 patent and ’188 patent.

I. P.R. 4-3(a)(1) Agreed Constructions

The Parties have agreed on constructions or partial constructions of the following terms attached hereto as Exhibit A. The Parties are continuing to work toward narrowing their disputes with respect to the terms identified for construction and attempting to reach agreement or partial agreement where possible.

II. P.R. 4-3(a)(2) Disputed Terms

Exhibits B and C attached hereto contain the Parties' proposed constructions for each disputed term, phrase, or clause together with the intrinsic and extrinsic evidence that the Parties contend support their proposed constructions.

Toyota and Kia Defendants: Exhibit B contains the Toyota and Kia Defendants' proposed constructions and intrinsic and extrinsic evidence in support of Defendants' constructions on the disputed terms.

Emerging Automotive: Exhibit C contains Emerging Auto's proposed constructions and intrinsic and extrinsic evidence in support of Emerging Auto's constructions on the disputed terms.

III. P.R. 4-3(a)(3) Anticipated Length of Time for the Claim Construction Hearing

The Parties agree that 4 hours will provide sufficient time to conduct the claim construction hearing.

IV. P.R. 4-3(a)(4) Anticipated Witnesses as Claim Construction Hearing

The Parties do not anticipate providing testimony from any witnesses at the claim construction hearing.

V. P.R. 4-3(a)(5) Other Issues to be Addressed at the Prehearing Conference

The Parties do not intend to raise any other issues at the prehearing conference.

Dated: October 24, 2024

Respectfully submitted,

/s/ James R. Barney

James R. Barney (LEAD) (DC Bar No. 473732)

Ryan T. Davies (DC Bar No. 1686044)

Alexander E. Harding (admitted *pro hac vice*)

Nicholas A. Eitsert (admitted *pro hac vice*)

Ariel Batiste (admitted *pro hac vice*)

FINNEGAN, HENDERSON, FARABOW,

GARRETT & DUNNER, LLP

901 New York Avenue, NW

Washington, DC 20001-4413

Tel. (202) 408-4000

Aidan C. Skoyles (admitted *pro hac vice*)

FINNEGAN, HENDERSON, FARABOW,

GARRETT & DUNNER, LLP

1875 Explorer St Suite 800

Reston, VA 20190-6023

Tel. (571) 203-2700

Michael C. Smith (TX Bar No. 18650410)

SCHEEF & STONE, LLP

State Bar No. 18650410

113 E. Austin Street

Marshall, Texas 75670

Office: (903) 938-8900

michael.smith@solidcounsel.com

*Counsel for Defendants Toyota Motor Corp.,
Toyota Motor North America, Inc., and Toyota
Motor Sales, U.S.A., Inc.*

/s/ Brett N. Watkins

Brett N. Watkins (TX Bar No. 24106816)

QUINN EMANUEL URQUHART &

SULLIVAN LLP

711 Louisiana Street, Suite 500

Houston, TX 77002

Tel.: (713) 221-7030

Fax: (713) 223-7100

brettwatkins@quinnemanuel.com

D. James Pak (admitted *pro hac vice*)

QUINN EMANUEL URQUHART &

SULLIVAN LLP

865 S. Figueroa Street, 10th Floor
Los Angeles, CA 90017
Tel.: (213) 443-3000
Fax: (213) 443-3100
djamespak@quinnemanuel.com

Deron R. Dacus (TX Bar No. 00790553)
THE DACUS FIRM, P.C.
821 ESE Loop 323, Suite 430
Tyler, TX 75701
Tel.: (903) 705-1117
Fax: (903) 581-2543
ddacus@dacusfirm.com

*Counsel for Defendants Kia Corporation and
Kia America, Inc.*

Dated: October 24, 2024

Respectfully submitted,

/s/ Marc Belloli
Marc Belloli
California Bar No. 244290
mbelloli@bdiplaw.com
M. Elizabeth Day
California Bar No. 177125
eday@bdiplaw.com
Jerry D. Tice II
Texas State Bar No. 24093263
jtice@bdiplaw.com
Aaron R. Hand
California Bar No. 245755
ahand@bdiplaw.com
Brenda Entzminger
California Bar No. 226760
bentzminger@bdiplaw.com
BUNSOW DE MORY LLP
701 El Camino Real
Redwood City, CA 94063
Telephone: (650) 351-7241
Facsimile: (415) 426-4744

*Attorneys for Plaintiff
Emerging Automotive LLC*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served or delivered electronically to all counsel of record on this October 24, 2024, via the Court's CM/ECF System.

/s/ James R. Barney

Emerging Automotive LLC v. Kia Corporation, et al., C.A. No. 2:23-cv-0437-JRG (lead case)
Joint Claim Construction Statement: Plaintiff's Proposed Constructions

Exhibit A: Agreed Constructions

The Parties currently have no agreed constructions.

Emerging Automotive LLC v. Kia Corporation, et al., C.A. No. 2:23-cv-0437-JRG (lead case)
Joint Claim Construction Statement: Defendants' Proposed Constructions

Exhibit B: Defendants' Proposed Constructions and Extrinsic and Intrinsic Evidence in Support¹

eKey Patents				
No.	Terms/Phrases	Proposed Construction	Intrinsic Evidence	Extrinsic Evidence
1.	"electronic key" / "eKey" / "e-key" ('026 claims 1, 2, 6, 10, 13, 15, 19; '659 claims 1, 3, 4, 6-8, 11, 13-15, 17, 18, 20-21; '188 claims 1, 3, 7, 9-12, 16-17)	electronic data that can be used to operate a vehicle consistent with privileges or conditions	'026 ² patent at 2:19-8:54, 10:23-34, 42:6-11, 42:9-35, 42:59-50:44, Figs. 26-35 '659 Pros Hist., EA_TOY-000404-EA_TOY-001059 (incl. May 9, 2023 Amendment) '026 Pros Hist., EA_TOY-000073-EA_TOY-000331 '188 Pros Hist., EA_TOY-001130-EA_TOY-001383	EA_TOY-019460 - EA_TOY-020252, EA_TOY-020371

¹ Defendants' incorporate by reference all evidence cited in Plaintiff's Exhibit C.

² The cited specification disclosures and figures of the '026 patent also appear in the '659 and '188 patents.

Emerging Automotive LLC v. Kia Corporation, et al., C.A. No. 2:23-cv-0437-JRG (lead case)
Joint Claim Construction Statement: Defendants' Proposed Constructions

eKey Patents				
No.	Terms/Phrases	Proposed Construction	Intrinsic Evidence	Extrinsic Evidence
2.	“the unique access code is associated with privileges for use of the vehicle, the privileges are defined for the unique access code” (’026 claims 1, 2, 7, 11, 14) “the e-key being assigned with the condition of use for the vehicle” / “the e-key being associated with the condition of use of the vehicle” (’188 claims 1, 16)	the unique access code/ekey corresponds to privileges/conditions of use of the vehicle that are defined for the unique access code/ekey	’026 at 2:60-3:15, 42:65-43:5, 44:23-34, 45:51-61, Figs. 30A, 30B ’026 Pros Hist., EA_TOY-000073-EA_TOY-000331 (incl. Jun. 11, 2019 Amendment and June 24, 2019 Notice of Allowability) ’026 POPR at pp. 11, 18 ’188 Pros Hist., EA_TOY-001130-EA_TOY-001383 ’659 Pros Hist., EA_TOY-000404-EA_TOY-001059	EA_TOY-019460 - EA_TOY-020252, EA_TOY-020371

Emerging Automotive LLC v. Kia Corporation, et al., C.A. No. 2:23-cv-0437-JRG (lead case)
Joint Claim Construction Statement: Defendants' Proposed Constructions

eKey Patents				
No.	Terms/Phrases	Proposed Construction	Intrinsic Evidence	Extrinsic Evidence
3.	“privileges for use of the vehicle” (’026 claim 1) “privilege settings for use of the vehicle” (’659 claim 18) “condition of use of the vehicle” (’188 claims 1, 16)	permitted uses of the vehicle when using the ekey, such as what type of access, speed limits, geographic restrictions, or the amount of time the e-keys will be valid	’026 patent at 2:60-3:10, 4:38-41, 4:65-5:18, 5:64-67, 6:60-63, 7:15-17, 7:32-40, 8:7-18, 10:25-34, 16:57-67, 35:46-57, 36:39-64, 38:1-57, 39:38-58, 40:33-47, 42:27-31, 42:59-44:10, 44:23-34, 45:11-50, 46:31-34, 49:37-45, Figs. 4, 5, 17, 18, 22, 26, 27, 29, 35 ’659 Pros Hist., EA_TOY-000404-EA_TOY-001059 (incl. May 9, 2023 Amendment) ’026 POPR at 3-4. ’026 Pros Hist., EA_TOY-000073-EA_TOY-000331 ’188 Pros Hist., EA_TOY-001130-EA_TOY-001383	EA_TOY-019460 - EA_TOY-020252, EA_TOY-020371

Emerging Automotive LLC v. Kia Corporation, et al., C.A. No. 2:23-cv-0437-JRG (lead case)
Joint Claim Construction Statement: Defendants' Proposed Constructions

eKey Patents				
No.	Terms/Phrases	Proposed Construction	Intrinsic Evidence	Extrinsic Evidence
4.	“communications circuitry of the vehicle . . . programmable to communicate with the server of the cloud system and communicate with a mobile device” (’026 claim 1) “the vehicle having wireless communication systems for communicating with the server or other servers and for communicating with devices local to the vehicle” (’188 claim 1)	communications circuitry in the vehicle configured to wirelessly communicate with a remote server and also wirelessly communicate with a local mobile device	’026 patent at 2:33-3:47, 4:45-54, 7:3-8, 8:49-54, 11:53-67, 12:26-47, 16:3-16, 33:46-34:39, 42:17-26, 43:59-44:6, 44:49-45:21, 45:22-38, 47:67-48:17, Figs. 8, 13A, 27, 28, 29, 30A-B, 32, 33 ’026 Pros Hist., EA_TOY-000073-EA_TOY-000331 (incl. Jun. 11, 2019 Amendment) ’659 Pros Hist., EA_TOY-000404-EA_TOY-001059 ’188 Pros Hist., EA_TOY-001130-EA_TOY-001383	EA_TOY-019460 - EA_TOY-020252, EA_TOY-020371

Emerging Automotive LLC v. Kia Corporation, et al., C.A. No. 2:23-cv-0437-JRG (lead case)
Joint Claim Construction Statement: Defendants' Proposed Constructions

eKey Patents				
No.	Terms/Phrases	Proposed Construction	Intrinsic Evidence	Extrinsic Evidence
5.	“communications circuitry of the vehicle . . . configured to process program instructions to enable communication with a server, the communications circuitry includes wireless communication circuitry for enabling local connection with a mobile device” (’659 claims 1, 11, 18)	communications circuitry of the vehicle programmed to communicate with a server, and wireless communication circuitry that enables a local connection between the vehicle and a mobile device	’026 patent at 2:33-3:47, 4:45-54, 7:3-8, 8:49-54, 11:53-67, 12:26-47, 16:3-16, 33:46-34:39, 42:17-26, 43:59-44:6, 44:49-45:21, 45:22-38, 47:67-48:17, Figs. 8, 13A, 27, 28, 29, 30A-B, 32, 33 ’026 Pros Hist., EA_TOY-000073-EA_TOY-000331 (incl. Jun. 11, 2019 Amendment) ’659 Pros Hist., EA_TOY-000404-EA_TOY-001059 ’188 Pros Hist., EA_TOY-001130-EA_TOY-001383	EA_TOY-019460 - EA_TOY-020252, EA_TOY-020371

Emerging Automotive LLC v. Kia Corporation, et al., C.A. No. 2:23-cv-0437-JRG (lead case)
Joint Claim Construction Statement: Defendants' Proposed Constructions

eKey Patents				
No.	Terms/Phrases	Proposed Construction	Intrinsic Evidence	Extrinsic Evidence
6.	“transmitting, by the server, the e-key to the recipient using the identifying information so that a device of the recipient is implemented to use the e-key” (’188, claim 1)	transmitting, by the server, the ekey to a device of the recipient so that the device is able to locally communicate the ekey to the vehicle	’026 patent at 2:33-3:47, 4:45-54, 7:3-8, 8:49-54, 11:53-67, 12:26-47, 16:3-16, 33:46-34:39, 42:17-26, 43:59-44:6, 44:49-45:21, 45:22-38, 47:67-48:17, Figs. 8, 13A, 27, 28, 29, 30A-B, 32, 33 ’026 Pros Hist., EA_TOY-000073-EA_TOY-000331 (incl. Jun. 11, 2019 Amendment) ’659 Pros Hist., EA_TOY-000404-EA_TOY-001059 ’188 Pros Hist., EA_TOY-001130-EA_TOY-001383	EA_TOY-019460 - EA_TOY-020252, EA_TOY-020371

Emerging Automotive LLC v. Kia Corporation, et al., C.A. No. 2:23-cv-0437-JRG (lead case)
Joint Claim Construction Statement: Defendants' Proposed Constructions

eKey Patents				
No.	Terms/Phrases	Proposed Construction	Intrinsic Evidence	Extrinsic Evidence
7.	"a server" / "the server" / "said server" ('026 claims 1, 2, 6, 13, 15; '659 claims 1, 3, 4, 12, 13, 20; '188 claims 1, 11, 16, 17)	a networked computer (the/said refers to the same networked computer)	188 POPR, P. 47 '026 patent at 2:10-3:19, 3:40-47, 6:44-54, 7:58-8:3, 15:52-16:2, 22:33-48, 42:59-43:5, 43:38-50, 44:35-48, 45:61-66, 47:21-49, 49:46-54, 50:30-62, Figs. 9A, 17, 28, 31A-B, 34 '268 patent at claims 10, 18, 20. '659 Pros Hist, EA_TOY-000404-EA_TOY-001059 (incl. Applicant's response and amendments to Feb. 7, 2023 Office Action) '026 Pros Hist., EA_TOY-000073-EA_TOY-000331 '188 Pros Hist., EA_TOY-001130-EA_TOY-001383	Wikipedia, the Free Encyclopedia, Server (2013) ("Servers can be run on a dedicated computer, which is also often referred to as 'the server'") Wiley Electrical and Electronics Engineering Dictionary, Server (2004) ("a computer whose hardware and/or software resources are shared by other computers.") Newton's Telecom Dictionary, 27th Ed., Server (2013) ("A server is a shared computer on the local area network that can be as simple as a regular PC set aside to handle print requests to a single printer.") Dictionary of Computer Science and Engineering, Server (2014) ("A dedicated computer which provides a function to a network such as storing images or printing data.") EA_TOY-019460 - EA_TOY-020252, EA_TOY-020371

Emerging Automotive LLC v. Kia Corporation, et al., C.A. No. 2:23-cv-0437-JRG (lead case)
Joint Claim Construction Statement: Defendants' Proposed Constructions

eKey Patents				
No.	Terms/Phrases	Proposed Construction	Intrinsic Evidence	Extrinsic Evidence
8.	“the vehicle is configured to receive information from the server to authenticate the request by the mobile device, and if the request is authentic, and the mobile device is provided with data to enable an electronic key to use the vehicle and the electronics of the vehicle instructs the subsystem of the vehicle to enable unlocking of the vehicle and enable starting of the vehicle for use of the vehicle via the electronic key consistent with the privileges of the unique access code” (’026 claim 1)	Indefinite.	’026 patent at Abstract, 2:43-3:19, 4:62-64, 6:44-64, 44:35-45:15, 45:6-7:2, 46:9-38, 47:21-48:28, 49:5-64, 8:27-42, Figs. 31A-33, 35 ’026 Pros Hist., EA_TOY-000073-EA_TOY-000331 (incl. claims as filed, Jul. 19, 2019 Rule 312 Amendment, and Aug. 1, 2019 Response to Amendment Under Rule 312) ’659 Pros Hist, EA_TOY-000404-EA_TOY-001059 ’188 Pros Hist., EA_TOY-001130-EA_TOY-001383	Defendants intend to rely on expert testimony of Dr. Matthew Shoemake, an expert in the area of the Asserted Patents. Dr. Shoemake may provide testimony in support of Defendants’ proposed construction that this term, read in light of the specification and the prosecution history, fails to inform, with reasonable certainty, those skilled in the art about the scope of the invention.

Emerging Automotive LLC v. Kia Corporation, et al., C.A. No. 2:23-cv-0437-JRG (lead case)
Joint Claim Construction Statement: Defendants' Proposed Constructions

eKey Patents				
No.	Terms/Phrases	Proposed Construction	Intrinsic Evidence	Extrinsic Evidence
9.	“a subsystem of the vehicle for enabling unlocking of the vehicle . . . a subsystem of the vehicle for enabling starting of the vehicle for use of the vehicle . . . the electronics of the vehicle instructs the subsystem of the vehicle to enable unlocking of the vehicle and enable starting of the vehicle” (’026 claim 1)	Indefinite.	’026 patent, Abstract, 2:28-33, 2:48-50, 33:22-30, Fig. 13A, 33. ’026 Pros Hist., EA_TOY-000073-EA_TOY-000331 ’659 Pros Hist, EA_TOY-000404-EA_TOY-001059 ’188 Pros Hist., EA_TOY-001130-EA_TOY-001383	Defendants intend to rely on expert testimony of Dr. Matthew Shoemake, an expert in the area of the Asserted Patents. Dr. Shoemake may provide testimony in support of Defendants’ proposed construction that this term, read in light of the specification and the prosecution history, fails to inform, with reasonable certainty, those skilled in the art about the scope of the invention.
10.	“the vehicle sends data to the server during the use of the electronic key on the vehicle, the data including at least use metrics of the vehicle, the use metrics being stored by the server as history of use for the electronic key” (’026 claim 13) “use of the vehicle using the eKey is tracked to identify and log actions taken using the vehicle while the eKey is used” (’659 claim 1) “use data regarding use of the vehicle for when the vehicle is used via the e-key” (’188 claims 1, 16)	tracking vehicle use metrics to determine whether the vehicle is used consistent with the privileges/conditions of the electronic key	’026 patent at 7:58-61, 40:21-26, 43:6-14, 47:6-14, 48:55-61, 49:16-25, 50:34-35, Figs. 16B, 22, 28 ’026 Pros Hist., EA_TOY-000073-EA_TOY-000331 ’659 Pros Hist, EA_TOY-000404-EA_TOY-001059 ’188 Pros Hist., EA_TOY-001130-EA_TOY-001383	EA_TOY-019460 - EA_TOY-020252, EA_TOY-020371

Emerging Automotive LLC v. Kia Corporation, et al., C.A. No. 2:23-cv-0437-JRG (lead case)
Joint Claim Construction Statement: Defendants' Proposed Constructions

eKey Patents				
No.	Terms/Phrases	Proposed Construction	Intrinsic Evidence	Extrinsic Evidence
11.	“the vehicle receives deactivation instructions to one or both of the mobile device and the vehicle” (’026 claim 13)	Indefinite.	’026 patent, 7:62-64, 8:62-64, 24:32-39, 43:6-22, 46:25-38, 49:26-36, Fig. 35 ’026 Pros Hist., EA_TOY-000073-EA_TOY-000331 ’659 Pros Hist, EA_TOY-000404-EA_TOY-001059 ’188 Pros Hist., EA_TOY-001130-EA_TOY-001383	Defendants intend to rely on expert testimony of Dr. Matthew Shoemake, an expert in the area of the Asserted Patents. Dr. Shoemake may provide testimony in support of Defendants’ proposed construction that this term, read in light of the specification and the prosecution history, fails to inform, with reasonable certainty, those skilled in the art about the scope of the invention.
12.	“warnings of when the use of the vehicle may exceed, has exceeded, or is about to exceed the condition of use” (’188 claim 8)	Indefinite.	’026 patent, 3:35-39, 4:4-8, 14:35-51, 37:19-37, Fig. 24 ’026 Pros Hist., EA_TOY-000073-EA_TOY-000331 ’659 Pros Hist, EA_TOY-000404-EA_TOY-001059 ’188 Pros Hist., EA_TOY-001130-EA_TOY-001383	Defendants intend to rely on expert testimony of Dr. Matthew Shoemake, an expert in the area of the Asserted Patents. Dr. Shoemake may provide testimony in support of Defendants’ proposed construction that this term, read in light of the specification and the prosecution history, fails to inform, with reasonable certainty, those skilled in the art about the scope of the invention.

Emerging Automotive LLC v. Kia Corporation, et al., C.A. No. 2:23-cv-0437-JRG (lead case)
Joint Claim Construction Statement: Defendants' Proposed Constructions

eKey Patents				
No.	Terms/Phrases	Proposed Construction	Intrinsic Evidence	Extrinsic Evidence
13.	“settings that should or may be made to the vehicle when using the e-key” (‘188 claim 17)	Indefinite.	’026 patent, 4:55-61, 5:23-39, 6:44-64, 7:13-34, 13:54-67, 16:42-17:48, 19:40-20:51, 22:66-24:49, 25:26-26:53, 30:19-67, 38:18-32, 43:23-37, Figs. 1, 3-7, 9A-B, 10, 17, 20, 22 ’026 Pros Hist., EA_TOY-000073-EA_TOY-000331 ’659 Pros Hist, EA_TOY-000404-EA_TOY-001059 ’188 Pros Hist., EA_TOY-001130-EA_TOY-001383	Defendants intend to rely on expert testimony of Dr. Matthew Shoemake, an expert in the area of the Asserted Patents. Dr. Shoemake may provide testimony in support of Defendants’ proposed construction that this term, read in light of the specification and the prosecution history, fails to inform, with reasonable certainty, those skilled in the art about the scope of the invention.
14.	“wherein the vehicle is configured to receive or securely store information from the server to perform authentication or verification that the coded data received from the mobile device should activate the eKey” (‘659 claim 3)	Indefinite.	’659 patent, Abstract, 2:55-58, 3:4-19, 4:14-37, 8:27-42, 19:23-34, 43:6-42, 44:66-45:21, 45:29-83, 46:50-48:36, 49:26-36, Figs. 1, 32 ’026 Pros Hist., EA_TOY-000073-EA_TOY-000331 ’659 Pros Hist, EA_TOY-000404-EA_TOY-001059 ’188 Pros Hist., EA_TOY-001130-EA_TOY-001383	Defendants intend to rely on expert testimony of Dr. Matthew Shoemake, an expert in the area of the Asserted Patents. Dr. Shoemake may provide testimony in support of Defendants’ proposed construction that this term, read in light of the specification and the prosecution history, fails to inform, with reasonable certainty, those skilled in the art about the scope of the invention.

Emerging Automotive LLC v. Kia Corporation, et al., C.A. No. 2:23-cv-0437-JRG (lead case)
Joint Claim Construction Statement: Defendants' Proposed Constructions

User Profile Patent³				
No.	Terms/Phrases	Proposed Construction	Intrinsic Evidence	Extrinsic Evidence
1.	“identifying a selected vehicle for applying the user profile, the selected vehicle having a plurality of settable settings, the selected vehicle being one of a plurality of vehicles identified as available by the server” (’268 claims 10)	The server identifies two or more vehicles that are available to the user and identifies one of them as a selected vehicle for applying the user profile, the selected vehicle having two or more settable settings	Proceedings in IPR2024-00786 (’268 patent) Prosecution history of U.S. App. No. 14/050,314, including examiner’s 3/26/2015 and 7/29/2015 rejections and applicant’s responses on 3/30/2015 and 8/19/2015. ’268 patent at 2:10-32, 2:47-3:55, 6:30-37, 10:42-11:10, 16:34-19:36, Figs. 7, 8, 9A, 9B	US 2012/0330494 (“Hendrix”) EA_TOY-019460 - EA_TOY-020252, EA_TOY-020371

³ Kia joins only as to the Asserted E-Key Patents.

Emerging Automotive LLC v. Kia Corporation, et al., C.A. No. 2:23-cv-0437-JRG (lead case)
Joint Claim Construction Statement: Defendants' Proposed Constructions

User Profile Patent ³				
No.	Terms/Phrases	Proposed Construction	Intrinsic Evidence	Extrinsic Evidence
2.	"a server," "the server" ('268 claims 10, 18)	<i>See above</i> (networked computer) a networked computer (the/said refers to the same networked computer)	Proceedings in IPR2024-00786 ('268 patent) '268 patent at 18:12–26. Claim 18 of the '268 patent. 188 POPR, P. 47 '026 at 2:10-3:19, 3:40-47, 6:44-54, 7:58-8:3, 15:52-16:2, 22:33-48, 42:59-43:5, 43:38-50, 44:35-48, 45:61-66, 47:21-49, 49:46-54, 50:30-62, Figs. 9A, 17, 28, 31A-B, 34⁴ '659 Pros Hist, EA_TOY-000404-EA_TOY-001059 (incl. Applicant's response and amendments to Feb. 7, 2023 Office Action) '026 Pros Hist., EA_TOY-000073-EA_TOY-000331 '188 Pros Hist., EA_TOY-001130-EA_TOY-001383	Proceedings in IPR2024-00981 ('188 patent), including Patent Owner's preliminary reply at page 47. EA_TOY-019460 - EA_TOY-020252, EA_TOY-020371

⁴ Defendants further identify the specification disclosures and figures of the '268 patent that correspond to those cited in the '026 patent.

Emerging Automotive LLC v. Kia Corporation, et al., C.A. No. 2:23-cv-0437-JRG (lead case)
Joint Claim Construction Statement: Defendants' Proposed Constructions

User Profile Patent³				
No.	Terms/Phrases	Proposed Construction	Intrinsic Evidence	Extrinsic Evidence
3.	“determining, by the server, applicable settings for the selected vehicle, the applicable settings being settings that are preferred to be set as identified from the user profile and are compatible with settings that are settable in the selected vehicle” (’268 claim 10) “the user profile having user settings for the vehicle, wherein certain of the user settings are determined to be compatible for use with the vehicle” (’268 claim 20)	the server / cloud based system determines applicable settings by performing a compatibility check to determine which settings that are preferred to be set as identified from the user profile are able to be set in the selected vehicle	Proceedings in IPR2024-00786 (’268 patent), including Patent Owner’s Preliminary Reply. Prosecution history of U.S. App. No. 14/050,314, including applicant’s 8/19/2015 remarks made in amendment (citing original specification paragraph [0018], among others). ’268 patent at 2:55–3:25. Original specification paragraphs [0007], [0075]. ’268 patent at 1:56–2:5, 10:42–55, 16:57–18:46, Figs. 7, 8, 9A.	EA’s First and Second Amended Complaints and materials cited therein. [This proposed construction is based on the statements EA made in its Patent Owner Preliminary Response in the corresponding IPR, so the construction is only applicable here and not in the IPR. IPR2024-00786, POPR at 2–3, 30; <i>see, e.g., CUPP Computing AS v. Trend Micro Inc.</i>, 53 F.4th 1376, 1383 (Fed. Cir. 2022).] EA_TOY-019460 - EA_TOY-020252, EA_TOY-020371

Emerging Automotive LLC v. Kia Corporation, et al., C.A. No. 2:23-cv-0437-JRG (lead case)
Joint Claim Construction Statement: Defendants' Proposed Constructions

User Profile Patent³				
No.	Terms/Phrases	Proposed Construction	Intrinsic Evidence	Extrinsic Evidence
4.	“communicating to the cloud processing system by the vehicle, changes to user settings, the cloud processing system processing the changes and other changes to the user settings to learn behavior associated with the changes to the user settings; receiving by the vehicle, from time to time, automatic changes to the user settings of the vehicle, wherein a repeat pattern of the changes is qualified as learned behavior before the automatic changes are sent to the vehicle for programming on the vehicle, wherein the user profile is configured to be updated to account for the automatic changes made to the user settings of the vehicle” (’268 patent claim 20)	Indefinite.	’268 Patent, 2:6-9, 3:56-4:28, 9:46-58, 15:6-30, 18:47-55, 22:48-60, 25:38-48, 27:12-22, Figs. 6, 9A, 9B, 12, 13A, 13B, 13C, 15, 16A, 16B, 16C, 16D Proceedings in IPR2024-00786 (’268 patent).	Defendants intend to rely on expert testimony of Dr. Matthew Shoemake. Dr. Shoemake may provide testimony in support of Defendants’ proposed construction that this term, read in light of the specification and the prosecution history, fails to inform, with reasonable certainty, those skilled in the art about the scope of the invention.

EXHIBIT C**I. PROPOSED CLAIM CONSTRUCTIONS AND EVIDENCE FOR THE '026, '659 AND '188 PATENTS**

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
1	“electronic key” / “eKey” / “e-key” ('026 claims 1, 2, 6, 10, 13, 15, 19; '659 claims 1, 3, 4, 6-8, 11, 13-14*, 17, 18, 20-21; '188 claims 1, 3, 7, 9-12, 16-17) *Defendants indicated that these terms appear in claim 15, but that claim does not include any term quoted above.	No construction necessary	Intrinsic: '026: Title; Abstract; Figs. 13A-35; 2:10 - 8:54; 10:23 - 13:19; 27:45 - 50:62; claims 1, 2, 6, 10, 13, 15, 19; '659: Title; Abstract; Figs. 13A-35; 2:22 - 9:2; 9:30 - 13:35; 27:56 - 51:8; claims 1, 3-4, 6-8, 11, 13-14, 17-18, 20-21; '188: Title; Abstract; Figs. 13A-35; 1:54 - 7:18; 7:46 - 11:44; 25:44 - 48:28; claims 1, 3, 7, 9-12, 16-17; '026 FH, 2019-03-04, Non-Final Rejection; '026 FH, 2019-06-04, Amendment, Remarks Made in Amendment;

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
			'026 FH, 2019-06-24, Notice of Allowability; '026 FH, 2019-07-19, Amendment, Remarks Made in Amendment; '026 FH, 2019-08-01, Response to Amendment; '659 FH, 2022-07-25, Preliminary Amendment, Remarks Made in Amendment; '659 FH, 2022-08-25, Non-Final Rejection; '659 FH, 2023-01-06, Amendment, Request for Reconsideration After Non-Final Rejection, Remarks Made in Amendment; '659 FH, 2023-02-07, Final Rejection; '659 FH, 2023-05-09, Amendment, Request for Continued Prosecution, Remarks Made in Amendment; '659 FH, 2023-06-26, Notice of Allowance; '188 FH, 2016-04-17, Preliminary Amendment, Remarks Made in Amendment; '188 FH, 2016-01-19, Examiner-Initiated Interview Summary; '188 FH. 2016-05-03, Notice of Allowance;

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
			Extrinsic: Documents in IPR2024-00785 Documents in IPR2024-01167 Documents in IPR2024-00981 Expert Declaration: Plaintiff's expert may offer opinions as discussed in the cover pleading, including that no particularized construction is necessary and/or the term should be construed consistent with any construction proffered by Emerging Auto. Plaintiff's expert may explain the plain and ordinary meaning of this term in light of the intrinsic evidence, extrinsic evidence cited herein, as well as based on his experience. Plaintiff's expert may provide rebuttal opinions based on any opinions or evidence cited by the Defendants.
2	"the unique access code is associated with privileges for use of the vehicle, the privileges are defined for the unique access code" ('026 claim 1*) *Defendants indicated that this	No construction necessary	Intrinsic: '026: Abstract; Figs. 13A-35; 2:10 - 8:54; 9:14 - 13:19; 27:45 - 50:62; claim 1; '188: Abstract; Figs. 13A-35;

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
	term appears in claims 2, 7, 11, 14, but those claims do not include the term as quoted above. “the e-key being assigned with the condition of use for the vehicle” / “the e-key being associated with the condition of use of the vehicle” (’188 claims 1, 16)		1:54 - 7:18; 7:46 - 11:44; 25:44 - 48:28; claims 1, 16; ’026 FH, 2019-03-04, Non-Final Rejection; ’026 FH, 2019-06-04, Amendment, Remarks Made in Amendment; ’026 FH, 2019-06-24, Notice of Allowability; ’026 FH, 2019-07-19, Amendment, Remarks Made in Amendment; ’026 FH, 2019-08-01, Response to Amendment; ’188 FH, 2016-04-17, Preliminary Amendment, Remarks Made in Amendment; ’188 FH, 2016-01-19, Examiner-Initiated Interview Summary; ’188 FH. 2016-05-03, Notice of Allowance; Extrinsic: Documents in IPR2024-00785 Documents in IPR2024-01167 Documents in IPR2024-00981

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
			Expert Declaration: Plaintiff's expert may offer opinions as discussed in the cover pleading, including that no particularized construction is necessary and/or the term should be construed consistent with any construction proffered by Emerging Auto. Plaintiff's expert may explain the plain and ordinary meaning of this term in light of the intrinsic evidence, extrinsic evidence cited herein, as well as based on his experience. Plaintiff's expert may provide rebuttal opinions based on any opinions or evidence cited by the Defendants.
3	"privileges for use of the vehicle" ('026 claim 1) "privilege settings for use of the vehicle" ('659 claim 18) "condition of use of the vehicle" ('188 claims 1, 16)	No construction necessary	Intrinsic: '026: Abstract; Figs. 13A-35; 2:10 - 8:54; 9:14 - 13:19; 27:45 - 50:62; claim 1; '659: Abstract; Figs. 13A-35; 2:22 - 9:2; 9:30 - 13:35; 27:56 - 51:8; claim 18;

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
			'188: Abstract; Figs. 13A-35; 1:54 - 7:18; 7:46 - 11:44; 25:44 - 48:28; claims 1, 16; '026 File History ("FH"), 2019-03-04, Non-Final Rejection; '026 FH, 2019-06-04, Amendment, Remarks Made in Amendment; '026 FH, 2019-06-24, Notice of Allowability; '026 FH, 2019-07-19, Amendment, Remarks Made in Amendment; '026 FH, 2019-08-01, Response to Amendment; '659 FH, 2022-07-25, Preliminary Amendment, Remarks Made in Amendment; '659 FH, 2022-08-25, Non-Final Rejection; '659 FH, 2023-01-06, Amendment, Request for Reconsideration After Non-Final Rejection, Remarks Made in Amendment; '659 FH, 2023-02-07, Final Rejection; '659 FH, 2023-05-09, Amendment, Request for Continued

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
			Prosecution, Remarks Made in Amendment; '659 FH, 2023-06-26, Notice of Allowance; '188 FH, 2016-04-17, Preliminary Amendment, Remarks Made in Amendment; '188 FH, 2016-01-19, Examiner-Initiated Interview Summary; '188 FH. 2016-05-03, Notice of Allowance; Extrinsic: Documents in IPR2024-00785 Documents in IPR2024-01167 Documents in IPR2024-00981 Expert Declaration: Plaintiff's expert may offer opinions as discussed in the cover pleading, including that no particularized construction is necessary and/or the term should be construed consistent with any construction proffered by Emerging Auto. Plaintiff's expert may explain the plain and ordinary meaning of this term in light of the intrinsic evidence, extrinsic evidence cited herein, as well as based on his

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
			experience. Plaintiff's expert may provide rebuttal opinions based on any opinions or evidence cited by the Defendants.
4	"communications circuitry of the vehicle . . . programmable to communicate with the server of the cloud system and communicate with a mobile device" ('026 claim 1) "the vehicle having wireless communication systems for communicating with the server or other servers and for communicating with devices local to the vehicle" ('188 claim 1)	No construction necessary	Intrinsic: '026: Abstract; Figs. 13A-35; 2:10 - 8:54; 9:14 – 13:19; 27:45 - 50:62; claim 1 ; '188: Abstract; Figs. 13A-35; 1:54 - 7:18; 7:46 - 11:44; 25:44 - 48:28; claim 1; '026 File History ("FH"), 2019-03-04, Non-Final Rejection; '026 FH, 2019-06-04, Amendment, Remarks Made in Amendment; '026 FH, 2019-06-24, Notice of Allowability; '026 FH, 2019-07-19, Amendment, Remarks Made in Amendment; '026 FH, 2019-08-01, Response to Amendment;

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
			'188 FH, 2016-04-17, Preliminary Amendment, Remarks Made in Amendment; '188 FH, 2016-01-19, Examiner-Initiated Interview Summary; '188 FH. 2016-05-03, Notice of Allowance; Extrinsic: Documents in IPR2024-00785 Documents in IPR2024-01167 Documents in IPR2024-00981 Expert Declaration: Plaintiff's expert may offer opinions as discussed in the cover pleading, including that no particularized construction is necessary and/or the term should be construed consistent with any construction proffered by Emerging Auto. Plaintiff's expert may explain the plain and ordinary meaning of this term in light of the intrinsic evidence, extrinsic evidence cited herein, as well as based on his experience. Plaintiff's expert may provide rebuttal opinions based on any opinions or evidence cited by the Defendants.

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
5	“communications circuitry of the vehicle . . . configured to process program instructions to enable communication with a server, the communications circuitry includes wireless communication circuitry for enabling local connection with a mobile device” (’659 claims 1, 11, 18)		Intrinsic: ’659: Abstract; Figs. 13A-35; 2:22 - 9:2; 9:30 - 13:35; 27:56 - 51:8; claims 1, 11, 18; ’659 FH, 2022-07-25, Preliminary Amendment, Remarks Made in Amendment; ’659 FH, 2022-08-25, Non-Final Rejection; ’659 FH, 2023-01-06, Amendment, Request for Reconsideration After Non-Final Rejection, Remarks Made in Amendment; ’659 FH, 2023-02-07, Final Rejection; ’659 FH, 2023-05-09, Amendment, Request for Continued Prosecution, Remarks Made in Amendment; ’659 FH, 2023-06-26, Notice of Allowance; Extrinsic : Documents in IPR2024-00785 Documents in IPR2024-01167 Documents in IPR2024-00981

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
			Expert Declaration: Plaintiff's expert may offer opinions as discussed in the cover pleading, including that no particularized construction is necessary and/or the term should be construed consistent with any construction proffered by Emerging Auto. Plaintiff's expert may explain the plain and ordinary meaning of this term in light of the intrinsic evidence, extrinsic evidence cited herein, as well as based on his experience. Plaintiff's expert may provide rebuttal opinions based on any opinions or evidence cited by the Defendants.
6	"transmitting, by the server, the e-key to the recipient using the identifying information so that a device of the recipient is implemented to use the e-key" ('188, claim 1)	No construction necessary	Intrinsic: '188: Figs. 13A-35; 1:54 - 7:18; 7:46 - 11:44; 25:44 - 48:28; claims 1; '188 FH, 2016-04-17, Preliminary Amendment, Remarks Made in Amendment; '188 FH, 2016-01-19, Examiner-Initiated Interview Summary; '188 FH. 2016-05-03, Notice of Allowance;

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
			Extrinsic: Documents in IPR2024-00785 Documents in IPR2024-01167 Documents in IPR2024-00981 Expert Declaration: Plaintiff's expert may offer opinions as discussed in the cover pleading, including that no particularized construction is necessary and/or the term should be construed consistent with any construction proffered by Emerging Auto. Plaintiff's expert may explain the plain and ordinary meaning of this term in light of the intrinsic evidence, extrinsic evidence cited herein, as well as based on his experience. Plaintiff's expert may provide rebuttal opinions based on any opinions or evidence cited by the Defendants.
7	"a server" / "the server" / "said server" ('026 claims 1, 2, 6, 13, 15; '659 claims 1, 3, 4, 12, 13, 20; '188 claims 1, 11, 16, 17)	No construction necessary	Intrinsic: '026: Abstract; Figs. 1-35; 2:10 - 50:62; claims 1, 2, 6, 13, 15; '659: Abstract; Figs. 1-35; 2:22 - 9:2;

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
			9:6 - 51:8; claims 1, 3-4, 12-13, 20; '188: Abstract; Figs. 1-35; 1:54 - 7:18; 7:21 - 48:28; claims 1, 11, 16-17; '026 File History ("FH"), 2019-03-04, Non-Final Rejection; '026 FH, 2019-06-04, Amendment, Remarks Made in Amendment; '026 FH, 2019-06-24, Notice of Allowability; '026 FH, 2019-07-19, Amendment, Remarks Made in Amendment; '026 FH, 2019-08-01, Response to Amendment; '659 FH, 2022-07-25, Preliminary Amendment, Remarks Made in Amendment; '659 FH, 2022-08-25, Non-Final Rejection; '659 FH, 2023-01-06, Amendment, Request for Reconsideration After Non-Final Rejection, Remarks Made in Amendment;

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
			'659 FH, 2023-02-07, Final Rejection; '659 FH, 2023-05-09, Amendment, Request for Continued Prosecution, Remarks Made in Amendment; '659 FH, 2023-06-26, Notice of Allowance; '188 FH, 2016-04-17, Preliminary Amendment, Remarks Made in Amendment; '188 FH, 2016-01-19, Examiner-Initiated Interview Summary; '188 FH. 2016-05-03, Notice of Allowance; Extrinsic: Documents in IPR2024-00785 Documents in IPR2024-01167 Documents in IPR2024-00981 Expert Declaration: Plaintiff's expert may offer opinions as discussed in the cover pleading, including that no particularized construction is necessary and/or the term should be construed consistent with any construction proffered by Emerging Auto. Plaintiff's expert may explain the plain and ordinary meaning of this term in light of the intrinsic evidence,

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
			extrinsic evidence cited herein, as well as based on his experience. Plaintiff's expert may provide rebuttal opinions based on any opinions or evidence cited by the Defendants.
8	"the vehicle is configured to receive information from the server to authenticate the request by the mobile device, and if the request is authentic, and the mobile device is provided with data to enable an electronic key to use the vehicle and the electronics of the vehicle instructs the subsystem of the vehicle to enable unlocking of the vehicle and enable starting of the vehicle for use of the vehicle via the electronic key consistent with the privileges of the unique access code" ('026 claim 1)	No construction necessary	Intrinsic: '026: Abstract; Figs. 13A-35; 2:10 - 8:54; 9:14 - 13:19; 27:45 - 50:62; claim 1; '026 File History ("FH"), 2019-03-04, Non-Final Rejection; '026 FH, 2019-06-04, Amendment, Remarks Made in Amendment; '026 FH, 2019-06-24, Notice of Allowability; '026 FH, 2019-07-19, Amendment, Remarks Made in Amendment; '026 FH, 2019-08-01, Response to Amendment; Extrinsic: Documents in IPR2024-00785

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
			Documents in IPR2024-01167 Documents in IPR2024-00981 Expert Declaration: Plaintiff's expert may offer opinions as discussed in the cover pleading, including that no particularized construction is necessary and/or the term should be construed consistent with any construction proffered by Emerging Auto. Plaintiff's expert may explain the plain and ordinary meaning of this term in light of the intrinsic evidence, extrinsic evidence cited herein, as well as based on his experience. Plaintiff's expert may provide rebuttal opinions based on any opinions or evidence cited by the Defendants.
9	"a subsystem of the vehicle for enabling unlocking of the vehicle . . . a subsystem of the vehicle for enabling starting of the vehicle for use of the vehicle . . . the electronics of the vehicle instructs the subsystem of the vehicle to enable unlocking of the vehicle and enable starting of the vehicle" ('026 claim 1)	No construction necessary	Intrinsic: '026: Abstract; Figs. 13A-35; 2:10 - 8:54; 9:14 - 13:19; 27:45 - 50:62; claim 1; '026 File History ("FH"), 2019-03-04, Non-Final Rejection;

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
			'026 FH, 2019-06-04, Amendment, Remarks Made in Amendment; '026 FH, 2019-06-24, Notice of Allowability; '026 FH, 2019-07-19, Amendment, Remarks Made in Amendment; '026 FH, 2019-08-01, Response to Amendment; Extrinsic: Documents in IPR2024-00785 Documents in IPR2024-01167 Documents in IPR2024-00981 Expert Declaration: Plaintiff's expert may offer opinions as discussed in the cover pleading, including that no particularized construction is necessary and/or the term should be construed consistent with any construction proffered by Emerging Auto. Plaintiff's expert may explain the plain and ordinary meaning of this term in light of the intrinsic evidence, extrinsic evidence cited herein, as well as based on his experience. Plaintiff's expert may provide rebuttal opinions based on

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
			any opinions or evidence cited by the Defendants.
10	“the vehicle sends data to the server during the use of the electronic key on the vehicle, the data including at least use metrics of the vehicle, the use metrics being stored by the server as history of use for the electronic key” (’026 claim 13) “use of the vehicle using the eKey is tracked to identify and log actions taken using the vehicle while the eKey is used” (’659 claim 1) “use data regarding use of the vehicle for when the vehicle is used via the e-key” (’188 claims 1, 16)	No construction necessary	Intrinsic: ’026: Abstract; Figs. 13A-35; 2:10 - 8:54; 9:14 - 13:19; 27:45 - 50:62; claim 13; ’659: Abstract; Figs. 13A-35; 2:22 - 9:2; 9:30 - 13:35; 27:56 - 51:8; claim 1; ’188: Abstract; Figs. 13A-35; 1:54 - 7:18; 7:46 - 11:44; 25:44 - 48:28; claims 1, 16; ’026 File History (“FH”), 2019-03-04, Non-Final Rejection; ’026 FH, 2019-06-04, Amendment, Remarks Made in Amendment;

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
			'026 FH, 2019-06-24, Notice of Allowability; '026 FH, 2019-07-19, Amendment, Remarks Made in Amendment; '026 FH, 2019-08-01, Response to Amendment; '659 FH, 2022-07-25, Preliminary Amendment, Remarks Made in Amendment; '659 FH, 2022-08-25, Non-Final Rejection; '659 FH, 2023-01-06, Amendment, Request for Reconsideration After Non-Final Rejection, Remarks Made in Amendment; '659 FH, 2023-02-07, Final Rejection; '659 FH, 2023-05-09, Amendment, Request for Continued Prosecution, Remarks Made in Amendment; '659 FH, 2023-06-26, Notice of Allowance; '188 FH, 2016-04-17, Preliminary Amendment, Remarks Made in Amendment; '188 FH, 2016-01-19, Examiner-Initiated Interview Summary;

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
			'188 FH. 2016-05-03, Notice of Allowance; Extrinsic: Documents in IPR2024-00785 Documents in IPR2024-01167 Documents in IPR2024-00981 Expert Declaration: Plaintiff's expert may offer opinions as discussed in the cover pleading, including that no particularized construction is necessary and/or the term should be construed consistent with any construction proffered by Emerging Auto. Plaintiff's expert may explain the plain and ordinary meaning of this term in light of the intrinsic evidence, extrinsic evidence cited herein, as well as based on his experience. Plaintiff's expert may provide rebuttal opinions based on any opinions or evidence cited by the Defendants.
11	"the vehicle receives deactivation instructions to one or both of the mobile device and the vehicle" ('026 claim 13)	No construction necessary	Intrinsic: '026: Abstract; Figs. 13A-35; 2:10 - 8:54; 9:14 - 13:19;

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
			27:45 - 50:62; claim 13; '026 File History ("FH"), 2019-03-04, Non-Final Rejection; '026 FH, 2019-06-04, Amendment, Remarks Made in Amendment; '026 FH, 2019-06-24, Notice of Allowability; '026 FH, 2019-07-19, Amendment, Remarks Made in Amendment; '026 FH, 2019-08-01, Response to Amendment; Extrinsic: Documents in IPR2024-00785 Documents in IPR2024-01167 Documents in IPR2024-00981 Expert Declaration: Plaintiff's expert may offer opinions as discussed in the cover pleading, including that no particularized construction is necessary and/or the term should be construed consistent with any construction proffered by

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
			Emerging Auto. Plaintiff's expert may explain the plain and ordinary meaning of this term in light of the intrinsic evidence, extrinsic evidence cited herein, as well as based on his experience. Plaintiff's expert may provide rebuttal opinions based on any opinions or evidence cited by the Defendants.
12	"warnings of when the use of the vehicle may exceed, has exceeded, or is about to exceed the condition of use" ('188 claim 8)	No construction necessary	Intrinsic: '188: Abstract; Figs. 1-35; 1:54 - 7:18; 7:22 - 48:28; claim 8; '026 File History ("FH"), 2019-03-04, Non-Final Rejection; '026 FH, 2019-06-04, Amendment, Remarks Made in Amendment; '026 FH, 2019-06-24, Notice of Allowability; '026 FH, 2019-07-19, Amendment, Remarks Made in Amendment; '026 FH, 2019-08-01, Response to Amendment;

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
			'188 FH, 2016-04-17, Preliminary Amendment, Remarks Made in Amendment; '188 FH, 2016-01-19, Examiner-Initiated Interview Summary; '188 FH. 2016-05-03, Notice of Allowance; Extrinsic: Documents in IPR2024-00785 Documents in IPR2024-01167 Documents in IPR2024-00981 Expert Declaration: Plaintiff's expert may offer opinions as discussed in the cover pleading, including that no particularized construction is necessary and/or the term should be construed consistent with any construction proffered by Emerging Auto. Plaintiff's expert may explain the plain and ordinary meaning of this term in light of the intrinsic evidence, extrinsic evidence cited herein, as well as based on his experience. Plaintiff's expert may provide rebuttal opinions based on

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
			any opinions or evidence cited by the Defendants.
13	“settings that should or may be made to the vehicle when using the e-key” (’188 claim 17)	No construction necessary	Intrinsic: ’188: Abstract; Figs. 1-35; 1:54 - 7:18; 7:46 - 48:28; claim 17; ’188 FH, 2016-04-17, Preliminary Amendment, Remarks Made in Amendment; ’188 FH, 2016-01-19, Examiner-Initiated Interview Summary; ’188 FH. 2016-05-03, Notice of Allowance; Extrinsic: Documents in IPR2024-00785 Documents in IPR2024-01167 Documents in IPR2024-00981 Expert Declaration: Plaintiff’s expert may offer opinions as discussed in the cover pleading, including that no particularized construction is necessary and/or the term should be construed consistent with any construction proffered by

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
			Emerging Auto. Plaintiff's expert may explain the plain and ordinary meaning of this term in light of the intrinsic evidence, extrinsic evidence cited herein, as well as based on his experience. Plaintiff's expert may provide rebuttal opinions based on any opinions or evidence cited by the Defendants.
14	"wherein the vehicle is configured to receive or securely store information from the server to perform authentication or verification that the coded data received from the mobile device should activate the eKey" ('659 claim 3)	No construction necessary	Intrinsic : '659: Abstract; Figs. 13A-35; 2:22 - 9:2; 9:30 - 13:35; 27:56 - 51:8; claim 3; '659 FH, 2022-07-25, Preliminary Amendment, Remarks Made in Amendment; '659 FH, 2022-08-25, Non-Final Rejection; '659 FH, 2023-01-06, Amendment, Request for Reconsideration After Non-Final Rejection, Remarks Made in Amendment; '659 FH, 2023-02-07, Final Rejection; '659 FH, 2023-05-09, Amendment, Request for Continued Prosecution, Remarks Made in Amendment;

No.	Claim Term or Phrase	Proposed Construction	Intrinsic and Extrinsic Evidence
			'659 FH, 2023-06-26, Notice of Allowance; Extrinsic: Documents in IPR2024-00785 Documents in IPR2024-01167 Documents in IPR2024-00981 Expert Declaration: Plaintiff's expert may offer opinions as discussed in the cover pleading, including that no particularized construction is necessary and/or the term should be construed consistent with any construction proffered by Emerging Auto. Plaintiff's expert may explain the plain and ordinary meaning of this term in light of the intrinsic evidence, extrinsic evidence cited herein, as well as based on his experience. Plaintiff's expert may provide rebuttal opinions based on any opinions or evidence cited by the Defendants.

II. PROPOSED CLAIM CONSTRUCTIONS AND EVIDENCE FOR THE '268 PATENT

No.	Claim Term or Phrase	Proposed Construction	Extrinsic Evidence
1	“identifying a selected vehicle for applying the user profile, the selected vehicle having a plurality of settable settings, the selected vehicle being one of a plurality of vehicles identified as available by the server” ('268 claim 10)	No construction necessary	Intrinsic: '268: Title; Abstract; Figs. 1-16A; 1:53 – 5:60; 6:8 – 26:30; 28:15 – 31:48; claim 10; '268 FH, 2015-03-26, Non-Final Rejection; '268 FH, 2015-03-30, Response to Office Action; '268 FH, 2015-07-29, Final Rejection; '268 FH, 2015-08-19, Response to Office Action; '268 FH, 2015-09-06, Notice of Allowability; Extrinsic: Documents in IPR2024-00786 Expert Declaration: Plaintiff’s expert may offer opinions as discussed in the cover pleading, including that no particularized construction is necessary and/or the term should be construed consistent with any construction proffered by Emerging Auto. Plaintiff’s expert may explain the plain and ordinary meaning of this term in light of the intrinsic evidence, extrinsic evidence cited herein,

No.	Claim Term or Phrase	Proposed Construction	Extrinsic Evidence
			as well as based on his experience. Plaintiff's expert may provide rebuttal opinions based on any opinions or evidence cited by the Defendant.
2	"a server," "the server" ('268 claims 10, 18)	No construction necessary	Intrinsic: '268: Abstract; Figs. 1-16D; 1:53 – 31:48; claims 10, 18; '268 FH, 2015-03-26, Non-Final Rejection; '268 FH, 2015-03-30, Response to Office Action; '268 FH, 2015-07-29, Final Rejection; '268 FH, 2015-08-19, Response to Office Action; '268 FH, 2015-09-06, Notice of Allowability; Extrinsic: Documents in IPR2024-00786 Documents in IPR2024-00814 Expert Declaration: Plaintiff's expert may offer opinions as discussed in the cover pleading, including that no particularized construction is necessary and/or the term should be construed consistent with any construction

No.	Claim Term or Phrase	Proposed Construction	Extrinsic Evidence
			proffered by Emerging Auto. Plaintiff's expert may explain the plain and ordinary meaning of this term in light of the intrinsic evidence, extrinsic evidence cited herein, as well as based on his experience. Plaintiff's expert may provide rebuttal opinions based on any opinions or evidence cited by the Defendant.
3	"determining, by the server, applicable settings for the selected vehicle, the applicable settings being settings that are preferred to be set as identified from the user profile and are compatible with settings that are settable in the selected vehicle" ('268 claim 10) "the user profile having user settings for the vehicle, wherein certain of the user settings are determined to be compatible for use with the vehicle" ('268 claim 20)	No construction necessary	Intrinsic: '268: Title; Abstract; Figs. 1-16D; 1:53 – 31:48; claims 10, 20; '268 FH, 2015-03-26, Non-Final Rejection; '268 FH, 2015-03-30, Response to Office Action; '268 FH, 2015-07-29, Final Rejection; '268 FH, 2015-08-19, Response to Office Action; '268 FH, 2015-09-06, Notice of Allowability; Extrinsic: Documents in IPR2024-00786 Expert Declaration: Plaintiff's expert may offer opinions as discussed in the cover pleading, including that no particularized construction is necessary

No.	Claim Term or Phrase	Proposed Construction	Extrinsic Evidence
			and/or the term should be construed consistent with any construction proffered by Emerging Auto. Plaintiff's expert may explain the plain and ordinary meaning of this term in light of the intrinsic evidence, extrinsic evidence cited herein, as well as based on his experience. Plaintiff's expert may provide rebuttal opinions based on any opinions or evidence cited by the Defendant.
4	"communicating to the cloud processing system by the vehicle, changes to user settings, the cloud processing system processing the changes and other changes to the user settings to learn behavior associated with the changes to the user settings; receiving by the vehicle, from time to time, automatic changes to the user settings of the vehicle, wherein a repeat pattern of the changes is qualified as learned behavior before the automatic changes are sent to the vehicle for programming on the vehicle, wherein the user profile is configured to be updated to account for the automatic changes made to the user settings of the vehicle" ('268	No construction necessary	Intrinsic: '268: Abstract; Figs. 1-16D; 1:53 – 31:48; claim 20; '268 FH, 2015-03-26, Non-Final Rejection; '268 FH, 2015-03-30, Response to Office Action; '268 FH, 2015-07-29, Final Rejection; '268 FH, 2015-08-19, Response to Office Action; '268 FH, 2015-09-06, Notice of Allowability; Extrinsic: Documents in IPR2024-00786 Expert Declaration: Plaintiff's expert may offer opinions as discussed in the cover

No.	Claim Term or Phrase	Proposed Construction	Extrinsic Evidence
	patent claim 20)		pleading, including that no particularized construction is necessary and/or the term should be construed consistent with any construction proffered by Emerging Auto. Plaintiff's expert may explain the plain and ordinary meaning of this term in light of the intrinsic evidence, extrinsic evidence cited herein, as well as based on his experience. Plaintiff's expert may provide rebuttal opinions based on any opinions or evidence cited by the Defendant.