

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

CROGA INNOVATIONS LTD.,

Plaintiff,

v.

INTERNATIONAL BUSINESS MACHINES
CORPORATION,

Defendant.

Case No. 2:23-cv-00634-JRG

JURY TRIAL DEMANDED

PLAINTIFF CROGA INNOVATIONS LTD.'S P.R. 4-2 DISCLOSURE

Pursuant to Local Patent Rule 4-2 and the Court's First Amended Docket Control Order (Dkt. No. 24), Plaintiff Croga Innovations Limited ("Croga") provides its preliminary proposed constructions of claim terms, phrases, or clauses for the asserted patents-in-suit that the parties have identified pursuant to P.R. 4-1.

Croga's list is based in part on Defendant International Business Machines Corporation ("IBM") purported view of the scope of the asserted claims as indicated in IBM's P.R. 3-3 invalidity contentions served on May 16, 2024. IBM's invalidity contentions are deficient for a variety of reasons, including but not limited to by failing to specifically identify its §§ 102 and/or 103 challenges and where the alleged prior art discloses specific claim limitations. Accordingly, Croga reserves its right to modify its proposed terms for claim constructions and proposed constructions as IBM provides appropriate disclosures and discovery. Croga's list was also compiled prior to receiving IBM's proposed claim constructions. Accordingly, Croga reserves its right to modify the proposed constructions below and/or identify additional extrinsic evidence,

including expert evidence, in light of IBM's proposed claim constructions. Croga also reserves the right to propose that any terms for which a construction is proposed have their plain and ordinary meaning.

In addition to the evidence referenced herein, Croga reserves the right to rely upon any and all forms of intrinsic evidence, including but not limited to references cited in the prosecution histories and references cited on the face of the patents-in-suit. In addition, Croga reserves the right to rely on any evidence produced by IBM, including testimony and declarations of one or more percipient or expert witnesses. In addition, Croga reserves the right to rely on any IPR petitions or declarations for any of the patents-in-suit.

For certain claim terms, Croga may rely upon the expert opinion testimony of Dr. Hugh Smith and/or Dr. Eric Cole to support its proposed claim constructions in the form of declarations filed with the Court and/or live testimony at the claim construction hearing, should the Court so desire. Dr. Hugh Smith and/or Dr. Eric Cole will testify that one of ordinary skill in the art during the relevant time periods would have construed the claim terms identified by the parties for construction in the manner Croga proposes, and that Croga's proposed constructions are derived from the intrinsic and, where applicable, extrinsic evidence. Dr. Hugh Smith and/or Dr. Eric Cole will also testify in rebuttal to IBM's proposed constructions and allegations of indefiniteness. Additionally, Croga may offer Dr. Hugh Smith and/or Dr. Eric Cole for the purposes of any tutorial that the Court may choose to conduct. Furthermore, for certain claim terms, Croga will rely on additional extrinsic evidence, including patents and reference materials identified in Exhibit A.

Dated: November 26, 2024

Respectfully submitted,

By: /s/ Brett Cooper

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CERTIFICATE OF SERVICE

I certify that this document is being served upon counsel of record on November 26, 2024
via electronic mail.

/s/ Brett E. Cooper

Brett E. Cooper

EXHIBIT A

Croga's Proposed Construction and Identification of Extrinsic Evidence

U.S. Patent No. 10,601,780

No.	Claim Term of '780 Patent	Claims	Proposed Construction and Identification of Extrinsic Evidence
1	"network isolation"	1, 11	No construction necessary.¹ <u>EXTRINSIC EVIDENCE</u> Plaintiff's Infringement Contentions and the evidence cited therein. Based on the intrinsic record and any extrinsic evidence, Dr. Hugh Smith and/or Dr. Eric Cole may opine regarding how a person of ordinary skill in the art ("POSITA") would understand this term in view of the intrinsic record and any extrinsic evidence (including background knowledge and skill).
2	"software module"	1, 11	No construction necessary. <u>EXTRINSIC EVIDENCE</u> Plaintiff's Infringement Contentions and the evidence cited therein. Based on the intrinsic record and any extrinsic evidence, Dr. Hugh Smith and/or Dr. Eric Cole may opine regarding how a person of ordinary skill in the art ("POSITA") would understand this term in view of the intrinsic record and any extrinsic evidence (including background knowledge and skill). CROGA-IBM-00047748 – CROGA-IBM-00047752, <i>Microsoft Computer Dictionary</i>, Fifth Edition ("module")

¹ For terms/phrases where Croga has indicated that no construction is necessary, Croga contends that either no construction is necessary or the term should be construed according to its plain and ordinary meaning. Croga reserves the right to propose constructions for these terms/phrases after reviewing IBM's proposed constructions.

			CROGA-IBM-00047743 – CROGA-IBM-00047747, <i>Dictionary of Computing</i>, Fourth Edition (“module”) CROGA-IBM-00047741 – CROGA-IBM-00047742, https://www.pcmag.com/encyclopedia/term/module CROGA-IBM-00047753 – CROGA-IBM-00047762, https://www.sciencedirect.com/topics/computer-science/software-module
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U.S. Patent No. 11,178,104

No.	Claim Term of ‘104 Patent	Claims	Proposed Construction and Identification of Extrinsic Evidence
3	“sandboxed computing environment”	1, 10, 18	No construction necessary. <u>EXTRINSIC EVIDENCE</u> Plaintiff’s Infringement Contentions and the evidence cited therein. Based on the intrinsic record and any extrinsic evidence, Dr. Hugh Smith and/or Dr. Eric Cole may opine regarding how a person of ordinary skill in the art (“POSITA”) would understand this term in view of the intrinsic record and any extrinsic evidence (including background knowledge and skill). CROGA-IBM-00047748 – CROGA-IBM-00047752, <i>Microsoft Computer Dictionary</i>, Fifth Edition (“sandbox”)
4	“authentication device”	1, 10, 18	No construction necessary. <u>EXTRINSIC EVIDENCE</u> Plaintiff’s Infringement Contentions and the evidence cited therein. Based on the intrinsic record and any extrinsic evidence, Dr. Hugh Smith and/or Dr. Eric Cole may opine regarding how a person of ordinary skill in the art (“POSITA”) would understand this term in view of the

			intrinsic record and any extrinsic evidence (including background knowledge and skill). CROGA-IBM-00047748 – CROGA-IBM-00047752, <i>Microsoft Computer Dictionary</i>, Fifth Edition (“authentication”) CROGA-IBM-00047743 – CROGA-IBM-00047747, <i>Dictionary of Computing</i>, Fourth Edition (“authentication”)
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