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12	Attorneys for Plaintiff		
13	EIT Holdings LLC		
14	UNITED STATES DISTRICT COURT		
15	NORTHERN DISTRICT OF CALIFORNIA		
16	SAN JOSE DIVISION		
17	EIT HOLDINGS LLC, a Delaware company	CASE NO. 5:11-CV-02465-PSG	
18	Plaintiff,	SUPPLEMENTAL JOINT CASE	
19	vs.	MANAGEMENT STATEMENT AND FEDERAL RULE OF CIVIL PROCEDURE	
20	LINKEDIN CORPORATION, a Delaware Corporation,	26(F) REPORT	
21	Corporation,	DEMAND FOR JURY TRIAL	
22	Defendant.	DEMIAND FOR JUNE TRIAL	
23			
24	Pursuant to the Court's Order of September 6, 2011 (Doc. 23), Plaintiff EIT Holdings,		
25	LLC ("EIT") and Defendant LinkedIn Corporation ("LinkedIn") submit this Supplemental Joint		
26	Case Management Statement and Federal Rule of Civil Procedure 26(f) Report.		
27			
28			
	Supplemental Joint Case Management Statement and Federal Rule of Civil		

Procedure 26(f) Report

## DESCRIPTION OF SUBSEQUENT CASE DEVELOPMENTS

On September 6, 2011, the parties came before the Court for their initial case management conference. At that conference and in their joint case management statement (ECF No. 22), the parties explained the procedural history of the ligitation. In particular, the parties explained that EIT filed a patent infringement action against multiple Defendants in the Northern District of California before the Honorable William H. Alsup (C-10-05623-WHA) and that Judge Alsup dismissed all except the first-named Defendant Yelp! Inc. based on misjoinder. The parties further explained that this case follows from Judge Alsup's order and involves the same patent as the prior-filed Yelp case—United States Patent No. 5,828,837 ("the '837 patent"). Given that Judge Alsup had set a claim construction hearing involving the same patent for early October 2011, the parties asked the Court to continue the case management conference and to hold off setting a schedule until Judge Alsup had had time to consider EIT and Yelp's respective positions on what the claims mean. On October 24th, Judge Alsup issued his claim construction order.

Both parties recognize the import of the proceedings before Judge Alsup in the Yelp case. In the initial joint case management statement, the parties told the Court that Judge Alsup's claim construction order "will construe terms relevant to this litigation, and is likely to obviate the need for this Court to consider some or all claim constructions issues." The parties also explained that one possible outcome from the claim construction order was likely to be an early motion for summary judgment by Yelp that included an argument that three means-plus-function limitations in claim 40 failed to disclose a corresponding structure that meets the requirements set forth in the Federal Circuit's decision in *Aristocrat Technologies Australia Pty Ltd. v. Int'l Game Tech.*, 521 F.3d 1328 (Fed. Cir. 2008). Given that the Court held the corresponding structure for these three means-plus-function limitations to be a "master program," LinkedIn believes that Yelp will file a motion for summary judgment of invalidity against the '837 patent. EIT believes that claim 40 does disclose a corresponding structure that meets the requirements and that summary judgement is not appropriate. LinkedIn expects that this motion will be heard before January 2012.

1	The result of any motion for summary jud	dgment filed in the Yelp case has the potential to	
2	significantly impact this case. Those proceeding	gs could result in a judgment of invalidity as to	
3	one or both of the asserted claims of the '837 patent. Those proceedings also could reveal		
4	additional claim terms that would need construction either by Judge Alsup or this Court.		
5	(LinkedIn agrees with the current claim constructions issued by Judge Alsup, and would not		
6	challenge their adoption in this case by this Court). Further, the parties have scheduled a		
7	settlement conference with Magistrate Judge Spero on December 6, 2011, and EIT is set to		
8	provide an initial demand on October 31st to which LinkedIn must respond by November 7th.		
9	The parties therefore ask the Court to set another case management conference in January of		
10	2012. By then, the parties expect to have further information that will aid this Court in setting a		
11	case management order.		
12			
13	Dated: October 25, 2011	Respectfully submitted,	
14			
15	Counsel for EIT Holdings, LLC	<b>Counsel for LinkedIn Corporation</b>	
15 16	Counsel for EIT Holdings, LLC  By: /s/ Edward W. Goldstein		
		By: /s/_Ryan Kent	
16	By: /s/ Edward W. Goldstein  Edward W. Goldstein (TX Bar No. 08099500)  GOLDSTEIN & LIPSKI, P.L.L.C.	By: /s/_Ryan Kent  Daralyn Durie (SBN 169825) Ryan M. Kent (SBN 220441)	
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## **Attestation of Concurrence**

I, Edward W. Goldstein, as the ECF user and filer of this document, attest that concurrence in the filing of this document has been obtained from each of the above signatories.

Dated: October 25, 2011

By: /s/ Edward W. Goldstein

Counsel for EIT Holdings, LLC

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system on October 25, 2011, or, if not yet registered with the Court's CM/ECF system, via electronic mail pursuant to Fed.R.Civ.P. 5(b)(2)(E). Any other counsel of record will be served by first class U.S. Mail.

/s/ Edward W. Goldstein
Edward W. Goldstein