

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

ALOFT MEDIA, LLC

§

vs.

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Case No. 6:09-CV-304

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ORACLE CORP., ET AL.

§

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**JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT**

Plaintiff Aloft Media, LLC (“Aloft”) and Defendants Halliburton Company, Halliburton Energy Services, Inc. (collectively “Halliburton”) and Fair Isaac Corporation (“FICO”) hereby submit the parties’ Joint Claim Construction and Prehearing Statement pursuant to Local Patent Rule 4-3 and the amended docket control order entered by the Court on September 21, 2010 (Dkt. No. 134). There are two patents at issue in this lawsuit: U.S. Patent Nos. 7,499,898 (“the ‘898 Patent”) and 7,593,910 (“the ‘910 Patent”).

Section I identifies the claim terms/phrases of the patents-in-suit for which the parties have agreed on a joint construction. Section II and Exhibit A contains Aloft’s proposed constructions for the disputed terms of the patents-in-suit, along with supporting intrinsic evidence. Section III and Exhibit B contains the defendants’ claim construction position for the disputed terms of the patents-in-suit. Section IV contains the parties’ positions regarding the length of the claim construction hearing. None of the parties anticipate calling any witnesses, including experts, at the claim construction hearing.

**I. Construction of Claim Terms on which the Parties Agree**

The parties have been unable to reach agreement on the construction of the terms currently at issue in this case.

## **II. Aloft's Construction of Disputed Claim Terms and Identification of Evidence**

In the claim chart attached hereto as Exhibit A, Aloft proposes claim constructions for the disputed claim terms of the patents-in-suit, and identifies intrinsic evidence upon which it may rely to support its proposed constructions.

## **III. Defendants' Construction of Disputed Claim Terms and Identification of Evidence**

In the claim chart attached hereto as Exhibit B, the defendants propose their claim construction position for the disputed claim terms of the patents-in-suit.

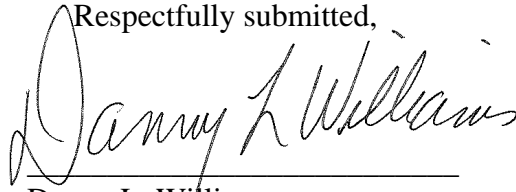
## **IV. Length of Claim Construction Hearing**

By its docket control order, the Court set the claim construction hearing to begin at 9:30 a.m. on January 13, 2011. The parties jointly propose that the Court allow a total of 3 hours (1.5 hours per side) for the *Markman* hearing and hearing on any Motion for Summary Judgment of Indefiniteness. Defendants additionally propose that the Court entertain argument on their motion for summary judgment of invalidity of the patents-in-suit (#149) ("*Bilski* motion") within the time allotted for the *Markman* hearing. Aloft does not believe that oral argument is necessary on the defendants' *Bilski* motion, and therefore opposes the defendants' request.

At this time, the parties do not believe there are any issues that need to be addressed by the Court at a prehearing conference.

Dated: November 9, 2010

Respectfully submitted,



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| <p>Respectfully submitted,</p> <p>Fulbright &amp; Jaworski L.L.P.</p> <p>By: <u>/s/ Eric B. Hall</u></p> <p>Brett C. Govett<br/> Texas Bar No. 08235900<br/> Lead Attorney<br/> Email: <a href="mailto:bgovett@fulbright.com">bgovett@fulbright.com</a></p> <p>Miriam L. Quinn<br/> Texas Bar No. 24037313<br/> Email: <a href="mailto:mquinn@fulbright.com">mquinn@fulbright.com</a></p> <p>Fulbright &amp; Jaworski L.L.P.<br/> 2200 Ross Avenue, Suite 2800<br/> Dallas, TX 75201-2784<br/> Telephone: (214) 855-8000<br/> Facsimile: (214) 855-8200</p> <p>Eric B. Hall<br/> Texas Bar No. 24012767<br/> Email: <a href="mailto:ehall@fulbright.com">ehall@fulbright.com</a></p> <p>Fulbright &amp; Jaworski L.L.P.<br/> 1301 McKinney, Suite 5100<br/> Houston, TX 77010-3095<br/> Telephone: (713) 651-5627<br/> Facsimile: (713) 651-5246</p> <p>Counsel for Defendant Fair Isaac Corporation</p> | <p>Respectfully submitted,</p> <p>McKOOOL SMITH, P.C.</p> <p>By: <u>/s/ Phillip Aurentz</u></p> <p>Theodore Stevenson III<br/> Texas State Bar No. 19196650<br/> <a href="mailto:tstevenson@mckoolsmith.com">tstevenson@mckoolsmith.com</a></p> <p>Aimee Perilloux Fagan<br/> Texas State Bar No. 24010299<br/> <a href="mailto:afagan@mckoolsmith.com">afagan@mckoolsmith.com</a></p> <p>Phillip Aurentz<br/> State Bar No. 24059404<br/> <a href="mailto:paurentz@mckoolsmith.com">paurentz@mckoolsmith.com</a></p> <p>McKool Smith, P.C.<br/> 300 Crescent Court, Suite 1500<br/> Dallas, Texas 75201<br/> Telephone: (214) 978-4000<br/> Telecopier: (214) 978-4044</p> <p>Counsel for Defendants Halliburton Co., and<br/> Halliburton Energy Services, Inc.</p> |
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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 per Local Rule CV-5(a)(3). Any other counsel of record will be served by facsimile transmission and/or first class mail on November 9, 2010.

/s/ Mark Dunlinson  
Litigation Paralegal