

Aloft's
Exhibit 3

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

ALOFT MEDIA, LLC

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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.

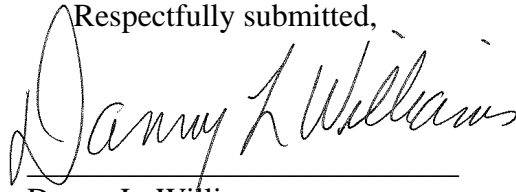
IV. Length of Claim Construction Hearing

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,

A handwritten signature in black ink that reads "Danny L. Williams". The signature is written in a cursive style and is positioned above a horizontal line.

Danny L. Williams
Texas Bar No. 21518050
Christopher N. Cravey
Texas Bar No. 24034398
Matthew R. Rodgers
Texas Bar No. 24041802
Michael A. Benefield
Indiana Bar No. 24560-49
David Morehan
Texas Bar No. 24065790
WILLIAMS, MORGAN & AMERSON, P.C.
10333 Richmond, Suite 1100
Houston, Texas 77042
Telephone: (713) 934-7000
Facsimile: (713) 934-7011
danny@wmalaw.com

Eric M. Albritton
Texas Bar No. 00790215
ALBRITTON LAW FIRM
P.O. Box 2649
Longview, Texas 75606
Telephone: (903) 757-8449
Facsimile: (903) 758-7397
ema@emafirm.com

Thomas John Ward, Jr.
Texas Bar No. 00794818
WARD & SMITH LAW FIRM
P.O. Box 1231
Longview, Texas 75606
Telephone: (903) 757-6400
Facsimile: (903) 757-2323
jw@jwfirm.com

Attorneys for Aloft Media, LLC

<p>Respectfully submitted,</p> <p>Fulbright & Jaworski L.L.P.</p> <p>By: <u>/s/ Eric B. Hall</u></p> <p>Brett C. Govett Texas Bar No. 08235900 Lead Attorney Email: bgovett@fulbright.com</p> <p>Miriam L. Quinn Texas Bar No. 24037313 Email: mquinn@fulbright.com Fulbright & Jaworski L.L.P. 2200 Ross Avenue, Suite 2800 Dallas, TX 75201-2784 Telephone: (214) 855-8000 Facsimile: (214) 855-8200</p> <p>Eric B. Hall Texas Bar No. 24012767 Email: ehall@fulbright.com Fulbright & Jaworski L.L.P. 1301 McKinney, Suite 5100 Houston, TX 77010-3095 Telephone: (713) 651-5627 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 Texas State Bar No. 19196650 tstevenson@mckoolsmith.com</p> <p>Aimee Perilloux Fagan Texas State Bar No. 24010299 afagan@mckoolsmith.com</p> <p>Phillip Aurentz State Bar No. 24059404 paurentz@mckoolsmith.com</p> <p>McKool Smith, P.C. 300 Crescent Court, Suite 1500 Dallas, Texas 75201 Telephone: (214) 978-4000 Telecopier: (214) 978-4044</p> <p>Counsel for Defendants Halliburton Co., and 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

EXHIBIT A

U.S. PATENT NOS. 7,499,898; 7,593,910			
Patent No(s):Claim(s)	Claim Term	Proposed Construction	Intrinsic Evidence¹
'898:14	decision logic	operations to execute a decision process	<u>'898 Patent:</u> Figures 1, 1a, 9, 11-18; Abstract; 2:7-14; 3:16-4:3; 17:13-28, 37-54, 58-63; 18:1-16, 17-67; 19:14-15, 24-28, 57-59, 60-62; 22:14-16.
'898:14	capable of performing decision logic	No construction necessary.	
'898: 46 '910:110	decision making	evaluating alternatives in the course of a decision process	<u>'898 Patent:</u> Figures 1-9, 11-18; 1:17-19, 23-67; 3:53-4:3; 20:42-44; 13:31-34; 14:14-15:58; 15:21- 40. <u>'910 Patent:</u> 1:11-30; 19:51-53; 22:38-58; 25:7-9; 27:66-67; 28:1-18; 32:52-53; 34:42-44.
'910:110	logic related to decision making	No construction necessary.	
'910:110	capable of performing logic related to decision making	No construction necessary.	

¹ Aloft's constructions are based on the intrinsic record of the patents-in-suit, and extrinsic evidence is therefore not necessary to properly construe the terms at issue in this case.

U.S. PATENT NOS. 7,499,898; 7,593,910			
Patent No(s):Claim(s)	Claim Term	Proposed Construction	Intrinsic Evidence ¹
'898:14, 63 '910:110, 209	potential feasible hybrid theme	a strategy resulting from a combination of parameters from two or more alternative strategies	<p><u>'898 Patent:</u> Figures 6a, 7; 12:52-55; 12:66 – 13:15; 14:5-11; 18:1-16; 18:21-19:8; 20:4-21, 59-67; 22:8-12.</p> <p><u>'910 Patent:</u> 17:11-30; 18:28-45; 20:47-49, 65-67; 21:1-10, 14-16; 22:7-11, 15-20, 40-58; 23:50-67; 26:6-8, 24-36, 27:35-39, 43-48; 28:1-18; 29:5-19; 31:14-15, 27-29, 30-36; 32:25-29, 32-36.</p>
'898:14, 45, 63 '910:110, 157, 159, 209	decision hierarchy display	a display that indicates the precedence of parameters in a decision process	<p><u>'898 Patent:</u> Figure 3, 3a, 4, 8a, 29, 30; 1:23-49; 10:42-51; 11:6-7; 11:48-51; 13:31-34, 46-48; 16:65 – 17:4; 17:55-63; 18:57-19:8; 20:4-21, 39-44; 22:8-12.</p> <p><u>'910 Patent:</u> 17:11-30; 18:28-45; 19:48-56; 20:14-22; 21:51-55; 22:7-11, 15-20, 40-58; 23:50-67; 25:4-12, 39-47; 27:12-16, 35-39, 43-48; 28:1-18; 29:5-19; 30:17-25, 50-58; 32-8-11, 25-29, 32-36, 64-67; 33:1-6, 34-53; 34:34-37.</p>

U.S. PATENT NOS. 7,499,898; 7,593,910			
Patent No(s):Claim(s)	Claim Term	Proposed Construction	Intrinsic Evidence¹
'898:14	per the application	No construction necessary.	
'898:14	computer code for processing	No construction necessary.	
'898:15 '910:111, 118-21	universal modules	a reusable software component for carrying out certain functionality	<u>'898 Patent:</u> Figures 1, 1a, 2, 3-7, 9, 11-18; 4:52-59, 63-66; 6:12-16, 18-23; 17:29-33; 19:9-13, 29-33, 39-56. <u>'910 Patent:</u> 17:31-35, 52-56, 62-67; 18:1-12; 22:59-63; 23:11-34; 28:19-22, 37-40, 45-60.
'898:22 '910:117	collaborative decision platform	computing environment that facilitates decision processes for different purposes by retrieving and receiving information from different sources and processing the information	<u>'898 Patent:</u> Figures 1-9, 11-18; Abstract; 1:17-19, 57-62; 3:26-33; 10:21-23, 32-25; 15:22-26; 19:26-28. <u>'910 Patent:</u> 17:49-51; 23:8-10; 28:35-36.
'898:35 '910:129	assessing uncertainties	No construction necessary.	
'898:42-44 '910:139-41, 176-77	value	No construction necessary.	

U.S. PATENT NOS. 7,499,898; 7,593,910			
Patent No(s):Claim(s)	Claim Term	Proposed Construction	Intrinsic Evidence¹
'898:42-44 '910:140-41, 177	sources of value	No construction necessary.	

**EXHIBIT B
TO
JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT**

Defendants submit that the following claim terms are intractably ambiguous and not amenable to construction, and that, as a result, the claims indicated in the chart below are indefinite and invalid under 35 U.S.C. §112 ¶2.

TERMS	LOCATION IN CLAIMS
decision logic	898 - Cl. 14
capable of performing decision logic	898 - Cl. 14
decision making	898 - Cl. 46 910 - Cl. 110
logic related to decision making	910 - Cl. 110
capable of performing logic related to decision making	910 - Cl. 110
potential feasible hybrid theme	898 - Cl. 14, 63 910 - Cl. 110, 209
decision hierarchy display	898 - Cl. 14, 45, 63 910 - Cl. 110, 157, 159, 209
per the application	898 - Cl. 14
computer code for processing	898 - Cl. 14
universal modules	898 - Cl. 15 910 - Cl. 111, 118, 119, 120, 121
collaborative decision platform	898 - Cl. 22 910 - Cl. 117
assessing uncertainties	898 - Cl. 35 910 - Cl. 129
value	898 - Cl. 42, 43, 44 910 - Cl. 139, 140, 141, 176, 177
sources of value	898 - Cl. 42, 43, 44 910 - Cl. 140, 141, 177

Defendants believe that any term in the Asserted Claims that is amenable to construction has its plain and ordinary meaning and, to the extent there is no disagreement as to the plain and ordinary meaning, does not require construction by the Court.