

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

YONDR, INC.

Plaintiff,

v.

BE SMARTER, LLC and
JAMES GUERRA.,

Defendants.

Case No. 1:24-cv-01326-ADA

Judge Alan D. Albright

DEMAND FOR JURY TRIAL

BE SMARTER, LLC and
JAMES GUERRA.,

Counterclaim Plaintiffs,

v.

YONDR, INC.

Counterclaim Defendant.

JOINT CLAIM CONSTRUCTION STATEMENT

Pursuant to the Court’s Standing Order Governing Proceedings, as revised March 5, 2025, Plaintiff Yondr, Inc. (“Yondr” or “Plaintiff”), and Defendants Be Smarter, LLC and James Guerra (collectively, “Be Smarter” or “Defendants”), submit this Joint Claim Construction Statement. The patents at issue in this matter are U.S. Patent No. 9,819,788 (the “’788 Patent”) and U.S. Patent

No. 12,133,078 (the “’078Patent”) (collectively, “Asserted Patents”). Based on availability, the Parties agreed to file this Joint Claim Construction Statement on July 29, 2025.

A. CONSTRUCTION OF THOSE CLAIM TERMS, PHRASES, OR CLAUSES ON WHICH THE PARTIES AGREE

Claim Term/Phrase	Agreed Upon Construction
“based on”/“in accordance with” (proposed by Defendants)	The parties agree these terms can be given the same meaning for purposes of this case
“geographic area of a venue” (proposed by Defendants)	A place or location of a venue
“Proximate” (proposed by Defendants)	Near

B. EACH PARTY'S PROPOSED CONSTRUCTION OF EACH DISPUTED CLAIM TERM, PHRASE, OR CLAUSE

Claim Term/Phrase	Plaintiff's Position	Defendants' Position
locking means (jointly proposed)	<p>This term appears as part of the larger phrase: “locking means for at least partially securing the opening”</p> <p><u>Function:</u> At least partially securing the opening</p> <p><u>Structure:</u> Securely mateable male and female members, opposing plates with securely mateable male and female members, magnetic plates, selectively releasable mesh, a lockable zipper, or a key-operated latch, and equivalents thereof</p>	<p>Means-plus-function under 35 U.S.C. § 112(f)</p> <p><u>Function:</u> at least partially securing the opening so that the user is unable to access his own mobile electronic device contained therein until a predetermined condition is met</p> <p><u>Structure:</u> opposing plates with securably mateable female and male members, magnetic plates, selectively releasable mesh, or lockable zippers</p>

Claim Term/Phrase	Plaintiff's Position	Defendants' Position
means for unlocking (jointly proposed)	<u>Function:</u> Unlocking the case <u>Structure:</u> A key, a magnet, or an electronic article surveillance (EAS) detacher, and equivalents thereof	Means-plus-function under 35 U.S.C. § 112(f) <u>Function:</u> unlocking the case <u>Structure:</u> electronic signal transmitter
configured to unlock (proposed by Defendants)	Plain and ordinary meaning, but if the court determines “configured” requires an explanation, then “designed to unlock” or “made to unlock.”	Programmed to unlock the case upon satisfying a predetermined condition (as defined)
predetermined condition (proposed by Defendants)	Plain and ordinary meaning	A specific pre-established requirement that must be satisfied before a user can regain access to his or her mobile electronic device/mobile device
until a predetermined condition is met / based on a predetermined condition / in accordance with a predetermined condition (proposed by Defendants)	Plain and ordinary meaning	The lock is programmed to allow access / unlock if a predetermined condition (as defined) is met
a predetermined condition associated with a geographic region (proposed by Defendants)	Plain and ordinary meaning	Indefinite, 35 U.S.C. § 112(b)

C. THE PARTIES' EXTRINSIC EVIDENCE

- **Yondr's Identification of Extrinsic Evidence:**

- Defendant Be Smarter's "CellockED" website (available at <https://cellocked.newschoolhero.org/>) (already in Be Smarter's possession);
- Be Smarter's IPR petition and supporting documents in IPR 2025-00970 (already in Be Smarter's possession);

- Declaration of David Smith in Support of Yondr, Inc.’s Responsive Claim Construction Brief
- **Defendants’ Identification of Extrinsic Evidence:**
 - Excerpts from the Merriam-Webster’s Collegiate Dictionary, providing definitions for the terms “case,” “shell,” and “proximate” (BESM_EE 0001-57);
 - Excerpts from Oxford Dictionary of Mechanical Engineering, providing definitions for “female part,” “male part,” and “shell” (BESM_EE 0179-18);
 - Declaration of Dr. Gregory Buckner dated April 9, 2025;
 - Joint Claim Construction and Prehearing Statement, *WIN Elements and John Nguyen v. Yondr, Inc.*, Case No. 24-cv-9311 (pending in the United States District Court for the Central District of California, May 16, 2025) (including Exhibit A thereto and all extrinsic evidence cited therein) (BESM_EE 0147-178)

D. THE ANTICIPATED LENGTH OF TIME NECESSARY FOR THE CLAIM CONSTRUCTION HEARING

The parties anticipate that the *Markman* hearing will take no longer than 2 hours to complete, 1 hour per side.

E. POSSIBLE WITNESSES AT THE CLAIM CONSTRUCTION HEARING

The parties do not anticipate calling any witnesses at the *Markman* hearing.

F. OTHER ISSUES WHICH MIGHT BE TAKEN UP PRIOR TO THE CLAIM CONSTRUCTION

The parties are unaware of any issues that may be taken up prior to the *Markman* hearing.

Respectfully submitted,

Dated: July 29, 2025

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CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Civil Procedure and Local Rule CV-5, I hereby certify that on July 29, 2025, I caused the foregoing document to be electronically transmitted to the Clerk of the Court using the CM/ECF system for filing and transmittal of a Notice of Electronic Filing to participants and law firms who are registered CM/ECF users, whom will be served by the CM/ECF system.

Dated: July 29, 2025

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Western District of Texas

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Filer: Yondr, Inc.

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Docket Text:

[Joint Claim Construction Brief or Statement regarding \[44\] Claim Construction Brief by Yondr, Inc.. \(Shiroma, Ben\)](#)

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