

# EXHIBIT L

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

CENTRALSQUARE  
TECHNOLOGIES, LLC,

Plaintiff and  
Counterclaim  
Defendant,

v.

CARBYNE, INC., and  
CARBYNE, LTD.

Defendants and  
Counterclaim  
Plaintiffs.

Civil Action No. 1:24-cv-01497

JURY TRIAL DEMANDED

**DECLARATION OF STUART J. LIPHOFF**  
**IN SUPPORT OF**  
**COUNTERCLAIM DEFENDANT CENTRALSQUARE'S**  
**CLAIM CONSTRUCTION FOR U.S. PATENT NO. 11,689,383**

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I, Stuart J. Lipoff, declare as follows:

**I. INTRODUCTION**

1. I have been retained by Plaintiff and Counterclaim Defendant CentralSquare Technologies, LLC (“CentralSquare”) as an independent expert consultant in the above-captioned case regarding U.S. Patent No. 11,689,383 (“the ’383 patent”) based on my experience, knowledge, and education related to the technologies relevant to the ’383 patent. I have been asked to provide an opinion on the construction of certain terms found in the asserted ’383 patent.

2. I understand that this proceeding involves U.S. Patent No. 11,689,383 (“the ’383 patent”) (Dkt. No. 11-1). The application for the ’383 patent was filed September 13, 2022, as U.S. Patent Application No. 17/943,956.

3. I am being compensated at my hourly rate of \$375 for the time I spend on this matter. No part of my compensation is dependent on the outcome of this proceeding or otherwise has any influence on my opinions in this proceeding. I have no other interest in this proceeding.

4. In performing my analysis, I have been asked to assume that the priority date is August 13, 2017, the date of U.S. Provisional Application No. 62/544,835, to which the ’383 patent claims priority. I also understand that the priority date of the ’383 patent is under dispute.

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## II. SUMMARY OF OPINIONS

5. This declaration considers the three disputed terms of the '383 patent, namely, “wherein the URL link is associated with the phone number of the mobile device,” “wherein the real-time video is associated with a unique identifier for the mobile device,” and “unique identifier.” Below, I set forth the opinions I have formed, the conclusions I have reached, and the bases for these opinions and conclusions. I believe the statements contained in this declaration to be true and correct to the best of my knowledge.

6. Based on my experience and knowledge of the art at the time of the earliest claimed priority date of August 13, 2017, it is my opinion that the first two terms of the disputed terms of the '383 patent would have been indefinite based on the intrinsic records discussed below. A person of ordinary skill in the art (“POSITA”) would have found them indefinite. Alternatively, if the Court adopts a construction, then it should construe the three disputed terms as proposed below.

## III. QUALIFICATIONS AND BACKGROUND

7. I believe that I am well qualified to serve as a technical expert in this matter based upon my qualifications, discussed in detail below.

8. My *curriculum vitae* (“CV”) is included as Exhibit M.

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9. I am currently president of IP Action Partners Inc., a consulting practice that serves the telecommunications, information technology, media, electronics, and e-business industries.

10. I earned a Bachelor of Science degree in Electrical Engineering in 1968 and a second Bachelor of Science degree in Engineering Physics in 1969, both from Lehigh University. I also earned a Master of Science degree in Electrical Engineering from Northeastern University in 1974, and then a Master of Business Administration degree from Suffolk University in 1983.

11. I hold a Federal Communications Commission (“FCC”) General Radiotelephone License. I also hold a Certificate in Data Processing (“CDP”) from the Association for Computing Machinery (“ACM”)-supported Institute for the Certification of Computing Professionals (“ICCP”).

12. I am a registered professional engineer in the Commonwealth of Massachusetts also in the State of Nevada.

13. I am a fellow of the Institute of Electrical and Electronics Engineers (“IEEE”) Consumer Electronics, Communications, Computer, Circuits, and Vehicular Technology Groups. I have been a member of the IEEE Consumer Electronics Society National Board of Governors (formerly known as the Administrative Committee) since 1981, and I was Boston Chapter Chairman of the

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IEEE Vehicular Technology Society from 1974 to 1976. I previously served as the 1996-1997 President of the IEEE Consumer Electronics Society, and as Chairman of the Society's Technical Activities and Standards Committee. I also served as Vice President of Publications for the Society, and as VP of Industry Activities & Standards. I currently serve on the Board of Governors as The Historian for the society. I have also served as an Ibuka Award committee member to select the recipient of the IEEE's award in the field of Consumer Electronics.

14. I have also prepared and presented many papers at IEEE and other professional meetings. For example, in Fall 2000, I served as general program chair for the IEEE Vehicular Technology Conference on advanced wireless communications technology. I have also organized sessions at The International Conference on Consumer Electronics and was the 1984 program chairman. I also conducted an eight-week IEEE sponsored short course on Fiber Optics System Design. I was awarded IEEE's Centennial Medal in 1984 and I was awarded the IEEE's Millennium Medal in 2000. A listing of my publications is included as part of my CV (Ex. L).

15. As Vice President and Standards Group Chairman of the Association of Computer Users ("ACU"), I served as the ACU representative to the ANSI X3 Standards Group. I also served as Chairman of the task group on user rule

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compliance for the FCC's Citizens Advisory Committee on Citizen's Band ("CB") radio ("PURAC").

16. I have been elected to membership in the Society of Cable Television Engineers ("SCTE"), the ACM, and The Society of Motion Picture and Television Engineers ("SMPTE"). I also served as a member of the USA advisory board to the National Science Museum of Israel, presented a short course on international product development strategies as a faculty member of Technion Institute of Management in Israel, and served as a member of the board of directors of The Massachusetts Future Problem Solving Program.

17. I am a named inventor on seven United States patents and have several publications on data communications topics in Electronics Design, Microwaves, EDN, The Proceedings of the Frequency Control Symposium, Optical Spectra, and IEEE publications.

18. For 25 years, I worked for Arthur D. Little, Inc. ("ADL"), where I became Vice President and Director of Communications, Information Technology, and Electronics ("CIE"). At ADL, I was responsible for the firm's global CIE practice in laboratory-based contract engineering, product development, and technology-based consulting. While employed at ADL, my projects included multiple projects involving call center hardware and systems including projects on

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behalf of suppliers of technology as well as assisting end users design, procure, and deploy call center technology. End users I have assisted have include organizations that deployed the most advanced sophisticated technology such as electric power utilities and financial institutions.

19. Prior to my time at ADL, I served as a Section Manager for Bell & Howell Communications Company for four years. Prior to working at Bell & Howell, I served as a Project Engineer for Motorola's Communications Division for three years. At both Bell & Howell and Motorola, I had project design responsibility for wireless communication and paging products.

**IV. PERSON OF ORDINARY SKILL IN THE ART**

20. I have been informed that a person of ordinary skill in the art ("POSITA") is determined by considering several factors, including the (i) type of problems encountered in the art; (ii) prior art solutions to those problems; (iii) rapidity with which innovations are made; (iv) sophistication of the technology; and (v) educational level of active workers in the field.

21. I have been instructed to assume that a POSITA is not a specific real individual, but rather a hypothetical individual having the qualities reflected by the factors discussed above. A POSITA is assumed to be person of ordinary creativity familiar with the prior art as of the priority date of the patent at issue.

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22. In my opinion, a POSITA in the field of the '383 patent would have had at least a bachelor's degree in electrical engineering, computer science, or a related discipline, and two years of experience in telecommunication systems or services using Internet protocols for sharing multimedia. Relevant work experience can substitute for formal education and additional education could substitute for work experience.

**V. SCOPE OF OPINION AND LEGAL STANDARDS**

23. I am an engineer and not a lawyer. My understanding of the legal standards to apply in reaching the conclusions in this declaration is based on discussions with counsel for CentralSquare, my experience applying similar standards in other patent-related matters, and my reading of the documents submitted in this proceeding. I have applied these legal standards in preparing this declaration.

24. This declaration does not set forth all my opinions regarding the '383 patent or the claim terms found therein. However, my analysis is of the issues that appear most relevant based on the claim constructions proposed by the parties. I reserve the right to amend, clarify, or expand upon the analysis and opinions set forth in this Declaration, and to respond to and rebut issues raised by the Counterclaim-Plaintiffs in the course of claim construction briefing and during this litigation.

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25. I understand that the claims of a patent are to be interpreted according to their plain and ordinary meaning according to a POSITA at the timeframe of the claimed invention. I understand that claims should be construed based on intrinsic evidence such as the claim language, the patent's specification, and the patent's prosecution file history, which includes the file histories of related patents. I understand I am also free to look at extrinsic evidence to help interpret the meaning and construction of the claims, including but not limited to sources such as appropriate dictionaries, the general knowledge of one skilled in the art, treatises, white papers, relevant journals, etc., as long as that extrinsic evidence does not contradict the evidence intrinsic to the patent.

26. I understand that the claims of a patent define the scope of the rights conferred by the patent. The claims particularly point out and distinctly claim the subject matter that the patentee regards as his invention. Because the patentee is required to define precisely what he claims his invention to be, it is improper to construe claims in a manner different from the plain import of the terms used consistent with the specification. Accordingly, a claim construction analysis must begin and remain centered on the claim language itself. Additionally, the context in which a term is used in the asserted claim can be highly instructive. Likewise, other claims of the patent in question, both asserted and unasserted, can inform the

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meaning of a claim term. For example, because claim terms are normally used consistently throughout the patent, the usage of a term in one claim can often illuminate the meaning of the same term in other claims. Differences among claims can also be a useful guide in understanding the meaning of particular claim terms.

27. I understand that the claims of a patent define the purported invention. I understand that the purpose of claim construction is to understand how one skilled in the art would have understood the claim terms at the time of the purported invention.

28. I understand that a person of ordinary skill in the art is deemed to read a claim term not only in the context of the particular claim in which the disputed term appears, but in the context of the entire patent, including the specification. For this reason, the words of the claim must be interpreted in view of the entire specification. The specification is the primary basis for construing the claims and provides a safeguard such that correct constructions closely align with the specification. Ultimately, the interpretation to be given a term can only be determined and confirmed with a full understanding of what the inventors actually invented and intended to envelop with the claim as set forth in the patent itself.

29. I understand that it is improper to place too much emphasis on the ordinary meaning of the claim term without adequate grounding of that term within

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the context of the specification of the asserted patent. Hence, claim terms should not be broadly construed to encompass subject matter that is not supported when the claims are read in light of the invention described in the specification. Art incorporated by reference or otherwise cited during the prosecution history is also highly relevant in ascertaining the breadth of claim terms.

30. I understand that claim terms must also be construed in a manner consistent with the context of the entire intrinsic record. To that end, in addition to consulting the patent's specification, one should also consider the patent's prosecution history, and the prosecution histories of related patents, if available. The prosecution file history provides evidence of how both the Patent Office and the inventors understood the terms of the patent, particularly in light of what was known in the prior art. Further, where the specification describes a claim term broadly, arguments and amendments made during prosecution may require a more narrow interpretation.

31. I understand that while intrinsic evidence is of primary importance, extrinsic evidence, e.g., all evidence external to the patent and prosecution history, including expert and inventor testimony, dictionaries, and learned treatises, can also be considered. For example, technical dictionaries may help one better understand the underlying technology and the way in which one of skill in the art might use the

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claim terms. Extrinsic evidence should not be considered, however, divorced from the context of the intrinsic evidence. Evidence beyond the patent specification, prosecution history, and other claims in the patent should not be relied upon unless the claim language is ambiguous in light of these intrinsic sources. Furthermore, while extrinsic evidence can shed useful light on the relevant art, it is less significant than the intrinsic record in determining the legally operative meaning of claim language.

32. I understand that in general, a term or phrase found in the introductory words of the claim, the preamble of the claim, should be construed as a limitation if it recites essential structure or steps, or is necessary to give life, meaning, and vitality to the claim. Conversely, a preamble term or phrase is not limiting where a patentee defines a structurally complete invention in the claim body and uses the preamble only to state a purpose or intended use for the invention. In making this distinction, one should review the entire patent to gain an understanding of what the inventors claim they actually invented and intended to encompass by the claims.

33. I understand that the prosecution history of each of the U.S. patents in the same patent family is considered part of the intrinsic record for claim construction purposes.

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34. I understand that the specification and drawings filed in a continuation application shall contain no matter that would have been new matter in the patent application.

## VI. MATERIALS CONSIDERED

35. In forming my opinions, I have reviewed the following documents, as well as other documents cited throughout this declaration:

Exhibit/ Dkt. No.	Description
<b>A</b>	U.S. Patent No. 10,686,618 to Dizengof (“the ’618 patent”)
<b>B</b>	U.S. Patent No. 11,139,996 to Dizengof (“the ’996 patent”)
<b>C</b>	U.S. Patent No. 11,716,217 to Dizengof (“the ’217 patent”)
<b>11-1</b>	U.S. Patent No. 11,689,383 to Dizengof (“the ’383 patent”)
<b>D</b>	U.S. Patent No. 12,309,207 to Dizengof (“the ’207 patent”)
<b>E</b>	Prosecution History of U.S. Patent No. 10,686,618
<b>F</b>	Prosecution History of U.S. Patent No. 11,139,996
<b>G</b>	Prosecution History of U.S. Patent No. 11,716,217
<b>H</b>	Prosecution History of U.S. Patent No. 11,689,383
<b>I</b>	Prosecution History of U.S. Patent No. 12,309,207
<b>J</b>	European Patent Application Publication No. 4,007,324 to Dizengof (“the EP ’324 publication”)
<b>K</b>	European Patent No. 3,445,016 to Dizengof (“the EP ’016 patent”)

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36. The '383 patent was filed on September 13, 2022, issued on June 27, 2023, and claims priority to U.S. Provisional Application No. 62/544,835 filed August 13, 2017. *See* '383 patent, cover page. The '383 patent was issued from a continuation application, and is one of five issued U.S. patents in the family, all of which allegedly share a specification and drawings.

37. I have also relied on my education, experience, research, training, and knowledge in the relevant art, and my understanding of legal principles described in this declaration.

38. All of the opinions contained in this declaration are based on the documents I reviewed and my knowledge and professional judgment. My opinions have also been guided by my understanding of how a POSITA would have understood the claims of the '383 patent at the time of the earliest claimed priority date.

39. I reserve the right to supplement and amend any of my opinions in this declaration based on documents, testimony, and other information that becomes available to me after the date of this declaration.

**VII. THE '383 PATENT (Dkt. No. 11-1)**

40. The '383 patent discloses systems and methods “for streaming real-time data from a user device to a call center.” '383 patent, 1:25-28, 4:25-27. The

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system includes one or more user devices (UD), such as “a smartphone, a mobile phone, a laptop,” etc., and one or more “call centers” configured to receive “calls” and “real-time data captured by the [user device]” over a network. ’383 patent, 5:16-35. The user device “may connect to the network 110 using voice calls as well as voice over internet protocol (VOIP).” ’383 patent, 5:16-26. Figure 1, below, illustrates the networked system for streaming “real-time data” between a “user device” and a “call center.” ’383 patent, 4:5-6, FIG. 1.

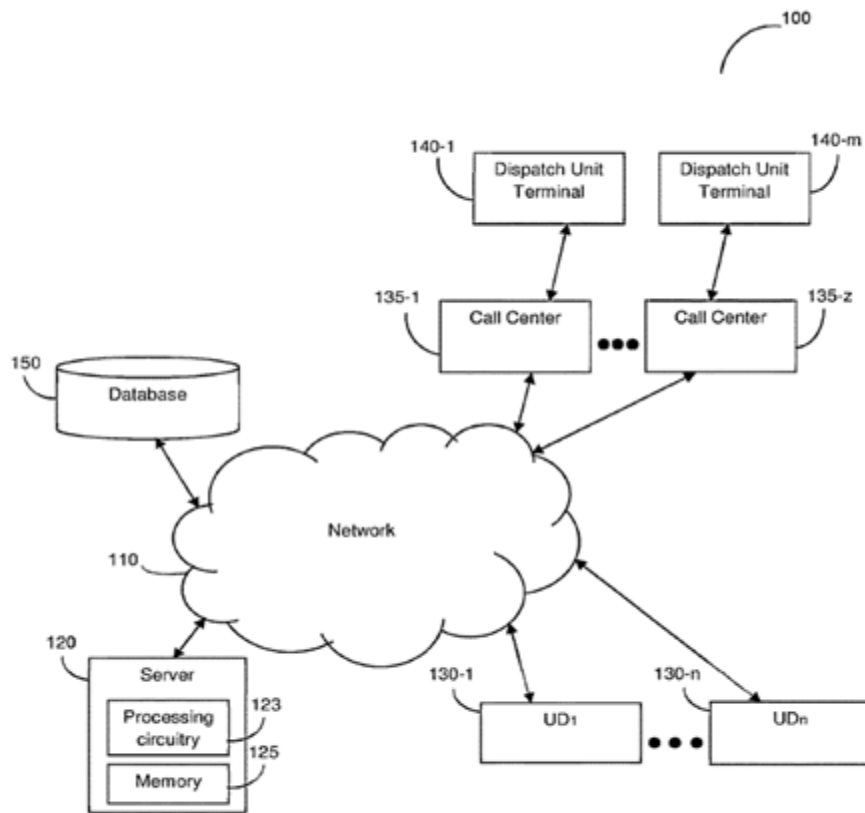


FIG. 1

’383 patent, FIG. 1.

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41. In an exemplary method, UD 130 establishes a “first connection” with a call center over a “cellular network” by dialing 9-1-1. ’383 patent, 6:58-61, 7:38-41, 8:36-40. The call may also be “forwarded” to a dispatch unit terminal (DUT), “such as police, firefighting, ambulance services, and the like.” ’383 patent, 1:39-44, 5:40-44. “When the call is answered, or while still in queue” a server 120 detects the first connection and “identifies the UD 130” by a “unique identifier” such as a “phone number or other unique identifier associated with the user device.” ’383 patent, 6:7-9, 7:42-55, 8:47-50; *see also* 6:19-22 (“The identifier may be, for example, a code snippet, a randomly generated string, a signature, and so on.”). Using the identifier, the server sends an “electronic message” containing a “link” to the UD “over a second connection over the network.” ’383 patent, 6:10-15. The electronic message may be “a short message service (SMS), an MMS, an electronic mail (email) message, and the like.” ’383 patent, 6:15-17. The “second connection” may also be an SMS. ’383 patent, 7:43-35 (“the server 120 identifies the UD 130 and sends a link over a second connection, such as an SMS, to the UD 130”).

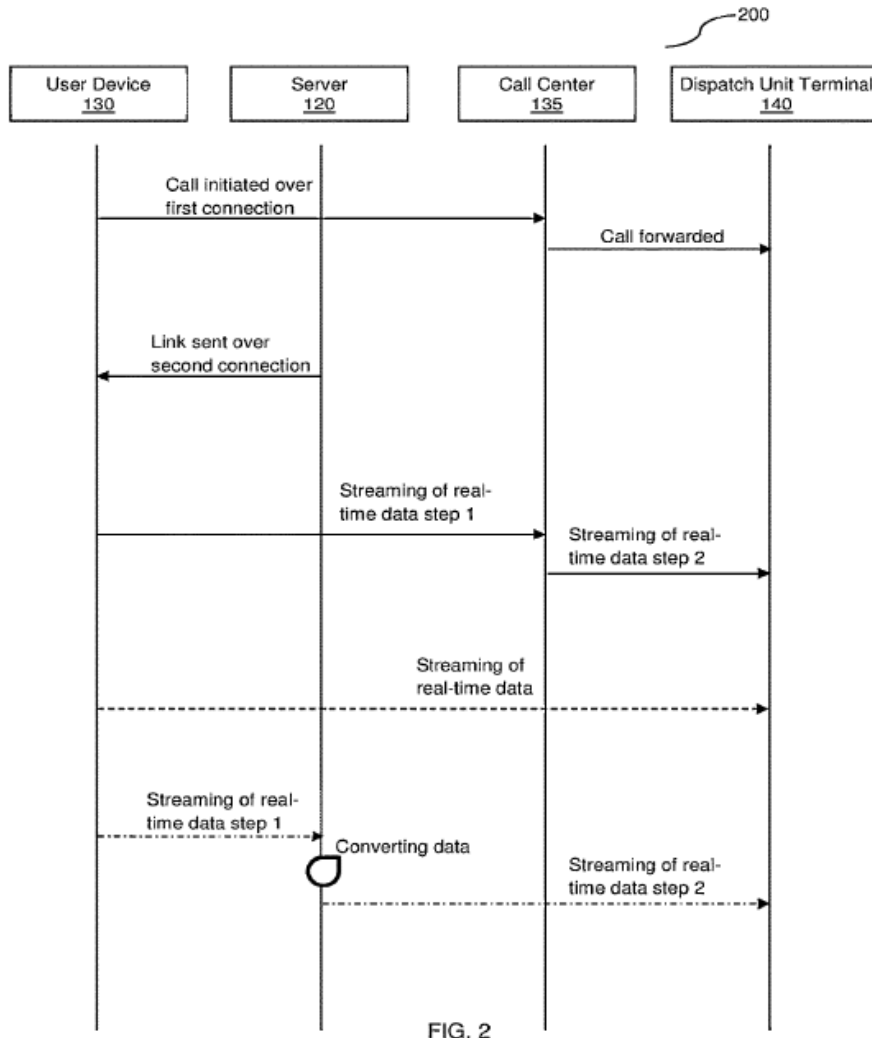
42. When the user selects the link, “a web browser is launched, enabling the streaming of real-time data, such as video, audio, location data, and the like, from the UD 130 to the call center 135. The call center then forwards the real-time data to the DUT 140.” ’383 patent, 7:45-49; *see also* 2:66-3:5, 6:26-32. In one example,

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“streaming the real-time data” (e.g., audio, video, or location data) “is achieved using a Web Real-Time Communication (WebRTC) API that enables real-time communication over peer-to-peer connections.” ’383 patent, 6:61-64. Here, selecting the link “cause[s] the UD 130 to establish a WebRTC session using a WebRTC API that would allow streaming real-time data from the UD 130 to the call center 135 and/or the DUT 140.” ’383 patent, 6:64-7:2.

43. Figure 2 below illustrates the exemplary method for directing communications between a user device and a call center “for emergency or non-emergency situations.” ’383 patent, 2:21-31, 5:9-25, FIG. 2.

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'383 patent, FIG. 2.

44. Figure 3 below is a flowchart of the method used by the system for streaming real-time data.” ’383 patent, 4:9-10.

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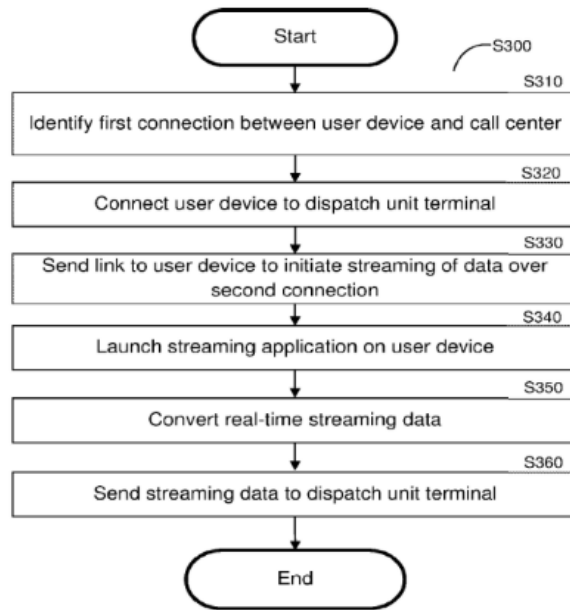


FIG. 3

'383 patent, FIG. 2.

45. As shown in Fig. 3, once an emergency call is received by the system and connected to a dispatch terminal, “the user device is identified,” (S320), which “may be achieved by identifying a phone number or other unique identifier associated with the user device” used in the first connection. '383 patent, 8:47-50. Next, at S330, “a link is sent to the user device over a second connection” that “includes an identifier unique to the [user’s device].” '383 patent, 8:51-56. At S340, the user engages the link, e.g., by clicking it, and “an application is launched that includes an interface for streaming real-time [video] data” (WebRTC) from the user’s device. '383 patent, 8:60-62. The real-time video is then converted (S350) and “sent to the dispatch unit” (S360), '383 patent, 27-35, where it is “further associated

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with the user device by a unique identifier.” ’383 patent, 8:65-67. The dispatcher, therefore, necessarily uses “the identifier that was included in the link . . . for associating the real-time data with the at least audio content” from the first connection. ’383 patent, 7:30-32.

46. I notice that the ’383 patent mentions “identifier” 25 times. The “identifier” is always associated with the user/mobile device, and is always “included within the link.” *See* ’383 patent, e.g., 2:25-31, 2:39-43, 2:52-56, 4:32-35, 4:38-39, 6:17-25, 7:30-34, 8:14-20, 8:48-50, 8:55-57.

47. I notice that the “identifier” included in the URL must be the same “identifier” associating the real-time data to the dispatch unit terminal for the invention to work. *See* e.g., 7:20-22, 7:22-27, 7:30-34, 8:14-20, 8:26-31, 8:55-57, 8:65-67, 9:30-33.

**VIII. OPINION REGARDING THE CONSTRUCTION OF THE CLAIM TERMS OF THE ’383 PATENT**

**A. “wherein the URL link is associated with the phone number of the mobile device”**

48. It is my opinion that this term is indefinite because the term, “wherein the URL link is associated with the phone number of the mobile device,” takes on several different meanings and no informed and confident choice is available among the contending definitions. For instance, the phrase “associated with” is unbounded,

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failing to provide a POSITA with guidance about the scope of the invention. *Nautilus, Inc.*, 572 U.S. at 901. Put another way, a POSITA would not know with reasonable certainty when a URL link is associated with the phone number of the mobile device, and—more importantly—when it is not.

49. Although the word “associated” is heavily recited throughout the ’383 patent’s specification, it is never defined. In my opinion, the ’383 specification fails to provide any definition or guidance on what “associated with” would mean to a POSITA. Taken broadly, the plain and ordinary usage of “associated with” would provide for any perceived connection or relationship between the URL link and the phone number of the mobile device. As such, the claim term as written would not be clear to a POSITA and does not properly limit the scope of the invention.

50. The ’383 patent specification attempts to “associate” several data sources:

- “a unique identifier associated with the user device” (2:27-28)
- “The URL is associated with the phone number of the mobile device” (3:5-6) (**Newly added**)
- “The real-time video stream is associated with a unique identifier for the mobile device” (3:11-12) (**Newly added**)

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- “the uploaded real-time data is associated with the user device using the identifier” (4:38-39)
- “the first [dispatch unit terminal] receives the real-time data and associates the received data with at least an audio content received over the first connection” (4:43-46)
- “the real-time data is associated, at the first [dispatch unit terminal] 140 with at least an audio content that was received over the first connection” (7:28-30)
- “identification may be achieved by identifying a phone number or other unique identifier associated with the user device” (8:48-50)

51. Yet none of these recitations clarify how to associate the *URL link* with **the phone number** of the mobile device. It is my opinion that, by itself and when viewed in context with the rest of recitations within the claim, this instance of “associated with” remains ambiguous, and fails to provide a skilled artisan with a reasonable certainty about the scope of the invention. The intrinsic record emphasizes patentees claimed ambiguity.

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**a. The patentee intentionally broadened the scope in the  
 disputed claim language, leaving no ascertainable scope**

52. The '383 patent was filed as a continuation application, one of many that share the same<sup>1</sup> specification in its family, and each of these applications include claims directed to the same subject matter. Notably, each of related patents prior to the '383 patent have similar claim language to the disputed term here, yet, with notable material distinctions:

Remaining Patent Family	The '383 Patent
U.S. Patent 10,686,618, Ex. A, Claim 1: “the link comprises . . . a <b><u>unique identifier</u></b> associated with the user mobile device”	Claim 1: “wherein the URL link is associated with the <b><i>phone number</i></b> of the mobile device.”
EP Patent 4,007,324, Ex. J, Claim 1: “the link comprises a <b><u>unique identifier</u></b> associated with said user mobile device”	
EP Patent 3,445,016, Ex. K, Claim 1: “the link further comprises a <b><u>unique identifier</u></b> associated with the user device”	
U.S. Patent 11,139,996, Ex. B, Claim 1: “the link comprises a <b><u>unique identifier</u></b> associated with said user mobile device”	
U.S. Patent 11,716,217, Ex. C, Claim 1: “a link associated with said <b><u>unique identifier</u></b> , to the user mobile device”	

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<sup>1</sup> Except that the '383 patent’s specification added three new paragraphs in the “Summary of the Invention” section and another new paragraph at the very end.

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53. In my opinion, omitting the “unique identifier” from the term here and from new embodiments in the specification allows Carbyne to claim any mere commonality between the URL link and the phone number of the mobile device. Whereas previously, the original specification and patent family claims limited the URL link to comprising a unique identifier—thereby improperly expanding the scope of these claims.

**b. Carbyne’s arguments during prosecution further obscure the scope of the disputed claim language**

54. In my opinion, Carbyne’s arguments to overcome prior art rejections further obfuscate any defined scope of term—or at least underscore that Carbyne’s interpreted broad scope was disavowed. For instance, during prosecution of the ’383 patent, the Examiner rejected the application as obvious over prior art reference Ni (U.S. Pat. Pub. No. 2014/0293046). Dkt. No. 21-3. In its response (Dkt. No. 21-3), Carbyne acknowledged that Ni teaches sending a text message with a link to receive a WebRTC call on the user’s device, citing the following paragraph:

*The alert may be sent via email, short message, social network and/or other types of online application notifications to the user and any specified members authorized by the user (e.g., family members, friends, designated security management company or police/fire/emergency departments, etc.) to receive such notifications. The notification may contain a short event description, a recommended action and a link to receive the webRTC call initiated by alert module 430.*

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Ni at ¶ 44. (Emphases added). Ni further discloses that:

Messaging module 730 *may send the alert notification by* email, *short message*, social network messages and/or other types of messaging *to the user . . . Call module 740 may connect the alert webRTC call received by the device alert module 710 to the user designated devices* (such as user device 170, emergency services system 150 and/or security management system 160) *and user may receive and terminate the call by using, for example, a* webRTC capable browser or a computer instant messaging application or an audio/video call application (such as VoIP) or a *webRTC capable mobile browser* or mobile application or regular audio/video mobile/wireline phone service.

*Id.*, at ¶ 65-66 (emphases added). Per Carbyne’s arguments to the Office, Ni teaches *texting a link to the user’s mobile device to open a WebRTC call* on a mobile browser. In my opinion, this is textbook doublespeak—Carbyne flatly rejected during prosecution that this texting functionality was sufficient to “associate” the link with the phone number of the mobile device. Dkt. No. 21-3 at 12. Therefore, “merely texting a link to a mobile device to establish a WebRTC call” *is insufficient* to show that the link is “associated with the phone number of the mobile device,” leaving a skilled artisan with no reasonable certainty as to the scope of the disputed claim language, i.e., when is a link associated with the phone number of the mobile device?

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55. Moreover, in my opinion, it is not enough that a POSITA might have some idea of what “the URL link is associated with the phone number of the mobile device” may mean. The scope is not limited in any meaningful way, and without guidance, a POSITA cannot be expected to make an informed and confident choice of what is infringing and what is not—a prospect that is further complicated by Carbyne’s contradictory arguments. It is my opinion, therefore, that the claim term is indefinite.

**2. Alternatively, the term should be construed as “wherein the URL link includes a unique identifier associated with the phone number of the mobile device”**

56. Should there be a finding that the claim term as written not be ruled indefinite, there are multiple references in the specification that indicate the claim term needs to be construed to require not just an association between the URL link and the phone number but also that the URL link must also include a separate unique identifier. In my opinion, this term should be construed, in the alternative, “*the URL link includes a unique identifier associated with the phone number of the mobile device.*”

57. This construction is based upon the ‘383 specification’s disclosures for the URL link:

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- “. . .wherein the link includes instructions to initiate streaming of real-time data from the user device, and further includes a unique identifier associated with the user device;” (‘383 2:25-28)
- “. . . Any real-time data streamed or otherwise uploaded to the call center 135 is coupled with the unique identifier included in the link.” (‘383 7:20-23)
- “. . . sending a link to the user device, wherein the link comprises instructions to initiate streaming of real-time data from the user device, and further comprises a unique identifier associated with the user device;” (‘383 2:36-40)

58. The specification explicitly states that the “link includes an identifier unique to the [user device]. *Id.*, 8:47-56; *see also*, 4:32-39. In these cited examples, the unique identifier is stated as being included in the URL link, which, in my opinion, a POSITA would understand as necessary for the invention to function as described in the specification.

59. Indeed, during prosecution of the parent ’996 patent, for instance, claim 1 was amended to include the underlined language: “wherein the link comprises a unique identifier associated with said user mobile device.” *See* Ex. F at 26. In amending the claims to include this language, Carbyne explained how and why the “unique identifier associated with the identified user mobile device” is “*incorporate[ed] into the link*”:

[T]he amended Claim 1 now clarifies a unique feature of associating the streamed real-time video with the identity of the sending user mobile device *by incorporating into the link a unique identifier associated with the identified user mobile device.* This unique identifier is a base for associating the user mobile device with the streamed real-time video at the dispatch unit terminal such that the

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dispatch unit can associate the mobile device that made the call over the first communication connection with the received real-time video.

*Id.* at 39. (Emphases added.) As explained, the “unique identifier” is used by the dispatcher to connect the “real-time video” with the “mobile device that made the call over the first communication connection.” *Id.* In my opinion, therefore, without “incorporating” the unique identifier “*into the link*,” the dispatcher would not be able to associate the resulting real-time video with the first call and the system would not work. Notably, the claims in the ’996 patent only associate the “unique identifier” in the link with “said user mobile device.”

60. In my opinion, while a variety of “unique identifiers” are available, including the phone number of the mobile device, the “unique identifier” for the URL link and mobile device association is distinct from specific unique identifiers for the mobile device itself. For instance, “[e]ach identifier is uniquely generated for each [user device] and therefore distinguishes any data sent from different [user devices].” *See id.*, 6:21-22. So, if it can be construed, the only interpretation of this term that aligns with the patent family claims *and* the real-time video association limitation below is that (1) the *link must include* a “unique identifier,” and (2) that “unique identifier” must be “associated with the phone number of the mobile

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device,” *i.e.*, *the unique identifier is distinct from the phone number*, as proposed in the alternative construction above.

**B. “wherein the real-time video stream is associated with a unique identifier for the mobile device”**

Carbyne’s Proposed Construction	CentralSquare’s Proposed Construction
Plain and ordinary meaning	Indefinite  Alternatively: “wherein the real-time video stream is associated with the mobile device using a unique identifier.”

61. In my opinion, like the first term, this term is equally rooted in improperly expanded scope within the ’383 patent specification and is likewise indefinite because it fails to inform, with reasonable certainty, those skilled in the art about the scope of the invention.” Alternatively, if the Court adopts a construction, it is my opinion that CentralSquare’s proposed alternative construction is well aligned with the remaining claims of the patent family.

**1. “wherein the real-time video stream is associated with a unique identifier for the mobile device” Is Indefinite**

62. In my opinion, the term here fails the definiteness requirement for the same reasons as above, in VIII(A). Specifically, the term, “wherein the real-time video stream is associated with a unique identifier for the mobile device,” fails to inform, with reasonable certainty, a POSITA about the scope of the invention. In my

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opinion, this disputed term also relies on the undefined, ambiguous, and indefinite language “associated with,” to claim the relationship between the “real-time video stream” and the “unique identifier for the mobile device.” As such, a POSITA would not know with a reasonable certainty when a “real-time video stream is associated with a unique identifier for the mobile device,” because “associated with” is effectively unlimited, and fails to provide any meaningful limitations on the scope of the invention.

63. As explained above, in my opinion, the specification of the ’383 patent does not provide any definition or guidance on what “associated with” means for the claimed invention. Taken broadly, the plain and ordinary usage of “associated with” in the presently disputed term is even more vague and ambiguous than above, as the language allows for *any* association with *any* unique identifier for the device, and is not limited to the “phone number.” *See* VIII(A). And the ’383 patent’s specification further fails to provide any meaningful limitations on “unique identifier.” As described in the specification, “the identifier may be, for example, a code snippet, a randomly generated string, a signature, and so on.” ’383 patent, 6:18-20. The unique identifier “may be the suffix of the URL, referencing a web address of the call center connected to the [user device]” (6:23-25), or “a phone number or other unique identifier associated with the user device.” *Id.*, 8:49-50. Indeed, the only thing

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certain regarding the unique identifier is that it “is uniquely generated for each [user device].” *Id.*, 6:21-22. Thus, this term attempts to claim any association with any identifier remotely related to the user’s device. In my opinion, this abstract and undefined language is the epitome of indefiniteness, and a POSITA would be unable to understand the claimed scope with a “reasonable certainty.”

**2. Alternatively, the term should be construed as “wherein the real-time video stream is associated with the mobile device using a unique identifier.”**

64. If the Court finds that the claim term is not indefinite, however, in my opinion, the claim term should be construed to mean “wherein the real-time video stream is associated with the mobile device using a unique identifier,” as it is the next most-logical interpretation of the claim term if a POSITA attempted to make sense of the claim language in view of the specification and record.

65. In my opinion, the only alleged support for the disputed term, as claimed, is in the newly added paragraphs, well beyond the subject matter disclosed in the original specification and claims. *See* ’383 patent, 2:57-3:61 (“The real-time video stream is associated with a unique identifier for the mobile device.”). Whereas, the original specification discloses that the real-time video is associated directly with the user’s device. There is no original disclosure where the real-time video is *only*

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associated with the unique identifier, without directly connecting the real-time data to the user's device. *See e.g., id.*, 4:38-39.

66. In my opinion, *associating the real-time video with only the unique identifier*, as claimed, effectively removes the required intermediate process of relating the real-time video and the mobile device, which is the essence of the '383 patent's alleged novelty. Whereas CentralSquare's proposed language provides the only logical interpretation in view of the specification—that the “*real-time video is further associated with the user device by a unique identifier.*” *Id.*, 8:65-67 (emphases added). And here, that unique identifier is also associated with the phone number of the device. *See VIII(A)*.

67. Indeed, Carbyne's arguments during prosecution support the proposed construction as well. As mentioned above, during prosecution of the '996 patent Carbyne explained how the claimed system associates the video stream with the mobile device using the unique identifier:

[T]he amended Claim 1 now clarifies a unique feature of *associating the streamed real-time video with the identity of the sending user mobile device* by incorporating into the link a unique identifier associated with the identified user mobile device. This unique identifier is a base for *associating the user mobile device with the streamed real-time video* at the dispatch unit terminal such that the dispatch unit can *associate the mobile device that made the call over the first communication connection with the received real-time video.*

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Ex. F at 39. (Emphases added.) Note that Carbyne’s explanation was precisely that the “unique identifier is a base for *associating the user mobile device with the streamed real-time video.*” *Id.* Nowhere during prosecution does Carbyne argue that the real-time video stream is associated only with the unique identifier.

68. Nevertheless, it is my opinion that, if it can be construed, the only logical interpretation of this disputed term in the ’383 patent is that (1) the real-time video stream is associated with the mobile device, and (2) the unique identifier is used to associate the real-time video stream with the mobile device, as CentralSquare proposed in the alternative construction above.

**C. “unique identifier”**

Carbyne’s Proposed Construction	CentralSquare’s Proposed Construction
Plain and ordinary meaning	“unique identifier used to match the real-time data with the dispatch terminal used in the first connection.”

69. Like the first two terms, in my opinion, this term is tainted by Carbyne’s attempts to expand the scope of the specification and invention. As such, it is my opinion that the ’383 patent specification should be disregarded in the construction, and that this term should be construed to align it with the remaining claims of the patent family.

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**1. The “unique identifier” term should be construed as “unique identifier used to match the real-time data with the dispatch terminal used in the connection.”**

70. In my opinion, this term, “unique identifier,” should be construed to mean “unique identifier used to match the real-time data with the dispatch terminal used in the connection.”<sup>2</sup> This is the exact verbiage of the specification. *See* ’383 patent 2:29-31.

71. The original ’618 patent, to which the ’383 patent claims priority, was filed with claim 1 reciting, among other things, “wherein the unique identifier is used to match the real-time data with the dispatch terminal used in the connection.” *See* Ex. E at 361. In my opinion, this position is further confirmed by subsequent amendments made on July 16, 2018, and February 11, 2019, in which the above-referenced term was amended to “wherein the unique identifier is used to match the real-time video data with the dispatch unit terminal used by said call center in the first communication connection.” *See id.* at 277 and 220. In the Remarks submitted with the amendments dated February 11, 2019, Carbyne emphasized that:

The amended claim now emphasizes that the **link** that is received in the user device, is made available **for a user of the user device to be engaged by the user**, so the **user can activate the link and by that, a web browser is launched, having WebRTC interface configured to**

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<sup>2</sup> “Connection” here refers to the *first* connection, i.e., the emergency call between a user’s mobile device and the PSAP. *See* ’383 patent 2:23-24 and 2:29-31.

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**initiate streaming of real-time video data from the user device through WebRTC session.**

The amended claim therefore specifically claims a real-time video data, which is sent from the user device to the dispatch unit by a web browser through WebRTC session.

*Id.* at 215. (Emphasis original.)

72. In earlier Remarks submitted on July 16, 2018, Carbyne argued that:

The amended claim now is clear and detailed in defining the function of the link sent to the user device, and that the link is sent as a response to the identification of the user device. The link is defined as comprises instructions that when executed upon activation of the link cause the user device to launch an interface configured to initiate streaming of real-time data from the user device, and further comprises a unique identifier associated with the user device.

*Id.* at 285.

73. The '996 patent, to which the '383 patent claim priority, is another continuation application of the original '618 patent. Claim 1 of the '996 patent recites, among other things, “wherein said link is made available to be engaged by a user of said user mobile device, following an identification of said user mobile device, wherein the link comprises a unique identifier associated with said user mobile device and instructions to initiate streaming of real-time video data from the user mobile device via a web browser executed on the user mobile device,” and

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“wherein the [Emergency Call Center] ECC dispatch unit terminal associates the real-time video data and the user mobile device based on said unique identifier.”

74. While the '618 and '996 patents are different in scope, the '383 patent is a continuation of both, and they share similar specifications<sup>3</sup>. Setting aside the notable differences in specifications addressed above, in my opinion, the common specification disclosures show that the “unique identifier” is the same identifier used in the link sent to the user mobile device, and that this “unique identifier” is associated with the user mobile device that is used in the first connection, i.e., in the voice call.

75. In my opinion, CentralSquare’s proposed construction is not only the exact verbiage of the specification but also reflected by Carbyne’s own arguments in the prosecution histories of multiple applications of the family, including but not limited to the '618, '996, and '383 patents.

## **IX. CONCLUSION**

76. In signing this declaration, I understand that the declaration will be filed as evidence in a the civil case before the United States District Court for the Western District of Texas. I acknowledge that I may be subject to cross-examination in this


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<sup>3</sup> Again, with the exception of the newly added paragraphs as discussed above. Regardless, the specifications of the '618 and the '996 patent are inclusive in the '383 patent’s specification.

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Western District of Texas. I acknowledge that I may be subject to cross-examination in this case and that cross-examination will take place within the United States. If cross-examination is required of me, I will appear for cross-examination within the United States during the time allotted for cross-examination.

77. I declare under the penalty of perjury that all statements made herein of my knowledge are true, and that all statements made on information and belief are believed to be true, and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

  
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Stuart J. Lipoff, P.E.