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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE**

TWILIO INC.,  Plaintiff,  vs.  TELESIGN CORPORATION,  Defendant.	Case No. 5:16-CV-06925-LHK-SVK
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**DECLARATION OF KEVIN ALMEROOTH IN REPLY TO SETH NIELSON'S  
DECLARATION**

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Declaration of Kevin Almeroth  
Case: 5:16-cv-06925-LHK-SVK

1 I, Kevin Almeroth, declare that I have personal knowledge of the facts set forth in this  
2 declaration and, if called to testify as a witness, could and would do so competently.

3 **I. INTRODUCTION**

4 1. I have been asked to provide expert opinions on behalf of Twilio in the above-  
5 captioned case.

6 2. This declaration is a statement of my opinions in response to Dr. Nielson's  
7 declaration on issues related to the meaning and usage of certain claim terms used in the asserted  
8 claims of U.S. Patent 8,306,021 ("the '021 Patent), U.S. Patent 8,837,465 ("the '465 Patent), and  
9 U.S. Patent 8,755,376 ("the '376 Patent").

10 3. My qualifications are stated more fully in my curriculum vitae and a brief  
11 summary of my qualifications is provided in my opening Declaration.

12 **II. MATERIALS CONSIDERED**

13 4. In forming my opinions, I have reviewed or relied upon:

- 14 a. the specifications, asserted claims, and file histories of the asserted Patents;
- 15 b. my background and experiences in the field;
- 16 c. the parties' joint claim construction statement and the cited evidence with  
17 respect to the claim term "REST API"; and
- 18 d. the Declaration of Seth Nielson and supporting evidence.

19 **III. LEGAL CONCEPTS**

20 5. I was not asked to offer any legal opinions in this matter.

21 6. I understand that the patent claims and claim terms are to be given the meaning  
22 one of ordinary skill in the art would understand them to have after considering the patent's  
23 claims, written description, and prosecution history.

24 7. I understand that extrinsic evidence encompasses "all evidence external to the  
25 patent and prosecution history, including expert and inventor testimony, dictionaries, and  
26 learned treatises." *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 980, 34 U.S.P.Q.2d  
27 1321 (Fed. Cir. 1995), *aff'd*, 517 U.S. 370, 116 S. Ct. 1384, 38 U.S.P.Q.2d 1461 (1996).

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1 8. I understand that a patent is invalid for indefiniteness if its claims, read in light of  
 2 the patent’s specification and prosecution history, fail to inform, with reasonable certainty, those  
 3 skilled in the art about the scope of the invention.

4 9. I understand that, according to the Supreme Court’s *Nautilus* decision in 2014,  
 5 that the definiteness requirement requires clarity to inform those skilled in the art about the  
 6 scope of the invention, while recognizing that absolute precision is unattainable.

7 **IV. DISPUTED TERM**

8 **A. “REST API”**

Plaintiff’s Proposed Construction	Defendant’s Proposed Construction
An application programming interface that is operable with Representational State Transfer (REST) conventions.	Indefinite.  <i>Alternatively:</i> A programmatic communication interface using a varying level of statelessness.

13 10. I understand that TeleSign’s technical expert opined that “[t]hose skilled in the  
 14 art as of April 2, 2009 would not have understood with reasonable certainty the terms ‘REST  
 15 API’ (or ‘representational state transfer (REST) API’).” Nielson Dec. at ¶32. I disagree.

16 11. Dr. Nielson states “there has been and continues to be considerable disagreement  
 17 among those skilled in the art as to the particular meaning and scope for ‘REST API,’” however,  
 18 Dr. Nielson presents no evidence to support this position. Nielson Dec. at ¶33. In fact,  
 19 TeleSign’s own website states that there is an industry standard for REST.



26 (<https://developer.telesign.com/v2.0/docs/getting-started-with-the-rest-api>). Thus, it appears that  
 27 TeleSign, its engineers, and its customers understand the meaning of REST API.

1           12. In addition, numerous textbooks, web design books, and the like have been  
2 published on how to implement REST APIs, indicating that one of ordinary skill in the art at the  
3 time of the invention would have understood with reasonable certainty the meaning of REST  
4 API. For example, REST API – Design Rulebook by Mark Masse, RESTful Web APIs by  
5 Leonard Richardson and Mike Amundsen, REST in Practice by Jim Webber, RESTful Web  
6 Services by Leonard Richardson and Sam Ruby, and RESTful API Design by Matthias Biehl.

7           13. As an initial matter, Dr. Nielson relies primarily on a dissertation written in 2000  
8 by Dr. Fielding (attached as Exhibit B) in support of his argument that the term “REST API” is  
9 indefinite. As pointed out by Dr. Nielson, Dr. Fielding is one of the principal creators of REST.

10           14. Dr. Nielson suggests that Dr. Fielding explains REST as an “architectural style  
11 that he *observed* (not defined).” Nielson Dec. at ¶33 (emphasis in original). Dr. Nielson  
12 presents no evidence to support this position. In fact, Dr. Nielson provides no citation for the  
13 quoted term “observed” and no explanation as to why observations would make the term “REST  
14 API” indefinite.

15           15. I have searched Dr. Fielding’s dissertation and find the term “observed” occurs  
16 only once. It appears in a section defining the term “components”:

17  
18           The behavior of each component is part of the architecture insofar as that  
19 behavior can be *observed* or discerned from the point of view of another  
20 component [9]. In other words, a component is defined by its interface and the  
services it provides to other components, rather than by its implementation behind  
the interface.

21 Ex. B at 10 (emphasis added).

22           16. If anything, this statement demonstrates that definitions can in fact be made based  
23 on observing and characterizing behaviors. More important, however, is that Dr. Nielson fails to  
24 include Dr. Fielding’s definition of what an architectural style is and then also fails to recognize  
25 that Dr. Fielding uses that very definition to compare and contrast the advantages and  
26 disadvantages of different styles. For example, Dr. Fielding defines an architectural style as:

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