

**** TEXT ONLY ORDER **** The court is in receipt of Apple's "request for a closing instruction construing 'a prediction associated with the particular data consuming instruction.'" (Dkt. # 572 .) Consistent with Apple's position, the court denied WARF's request to exclude expert testimony and argument on this issue. (See 10/8/15 Op. & Order (dkt. # 559).) The court also sided with Apple in its request that the term simply be given its plain and ordinary meaning. (See Id.; see also Apple's Opp'n (dkt. # 552) 2 (asking the court to give the term its plain meaning).) As such, Apple has waived any request to now insert a construction of the term into the closing jury instructions. In any event, for the reasons already explained in its prior opinion, plain meaning is sufficient. Apple's request is therefore DENIED. Signed by District Judge William M. Conley on 10/9/15. (jat) (Entered: 10/09/2015)