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23 UNITED STATES DISTRICT COURT
24 NORTHERN DISTRICT OF CALIFORNIA
25 SAN JOSE DIVISION

26 IMMERSION CORPORATION,)	Case No. 5:17-cv-03886-LHK
)	
27 Plaintiff,)	PLAINTIFF IMMERSION
)	CORPORATION'S CORRECTED
28 v.)	PRELIMINARY CLAIM
)	CONSTRUCTIONS AND EXTRINSIC
29 FITBIT, INC.,)	EVIDENCE
)	
30 Defendant.)	DEMAND FOR JURY TRIAL
)	
)	Judge: Honorable Lucy H. Koh

PLAINTIFF IMMERSION CORPORATION'S CORRECTED PRELIMINARY
CLAIM CONSTRUCTIONS AND EXTRINSIC EVIDENCE

1. Pursuant to Patent Local Rule 4-2(a) and (b) (Exchange of Preliminary Claim Constructions and Extrinsic Evidence) and the Court's October 10, 2017 Case Management Order (Dkt. No. 35), Plaintiff, Immersion Corporation ("Immersion") hereby provides its corrected preliminary proposed claim constructions for the following terms, phrases, and clauses for construction from the asserted U.S. Patent Nos. 8,059,105, 8,351,299, and 8,638,301 that parties have identified pursuant to Patent L.R. 4-1, and preliminary identification of extrinsic evidence that Immersion may rely on to support its proposed claim construction. Immersion reserves the right to amend its proposed claim constructions and its identification of extrinsic evidence.

2. Immersion may present evidence from one or more technical experts in support of Immersion's proposed constructions. Such expert evidence may address the relevant field of art, the level of ordinary skill in the art, and the meaning that certain claim terms would have to a person of ordinary skill in the art.

3. Immersion's list of proposed terms, clauses, or phrases for construction as well as Immersion's preliminary claim constructions and identification of extrinsic evidence were prepared in response to Defendant's Patent L.R. 4-1 disclosures. Immersion reserves the right to modify its list of terms for construction, preliminary proposed constructions, and identification of extrinsic evidence. In addition, Immersion's proposed constructions were compiled prior to receiving Defendant's proposed claim constructions. Accordingly, Immersion may modify the proposed constructions below and/or identify additional extrinsic evidence, including expert evidence, in light of Defendant's proposed claim constructions. Immersion anticipates that the parties may be able to narrow the list of terms and phrases to be construed or otherwise agree upon constructions during the process culminating in the preparation of a joint claim construction and prehearing statement pursuant to Patent L.R. 4-3 and the Court's Case Management Order entered in this case.

4. Subject to the foregoing, Immersion provides the following preliminary claim constructions and identification of extrinsic evidence.

I. U.S. Patent No. 8,059,105 ('105 Patent)

Claim Term	Claim(s)	Immersion's Proposed Construction
"haptic feedback device"	19, 20, 21	<p><u>Proposed Construction:</u></p> <p>A touch controlled device that provides haptic sensations in response to one or more events.</p> <p><u>Intrinsic Evidence:</u></p> <p>'105 Patent at 11:35–40; 12:35–39; 15:1–14; '105 Patent at Figures 1, 7, 8A, 8B.</p> <p><u>Extrinsic Evidence:</u></p> <p>Immersion may offer an expert declaration by Dr. Sigurd Meldal as to how skilled artisans would have understood this term(s) in light of the patent specification, prosecution history and relevant standards at the time of the invention. Immersion may also offer an expert declaration by Dr. Meldal as to the level of ordinary skill in the relevant art and the technology that underlies the alleged inventions, as well as in rebuttal to any extrinsic evidence offered by Fitbit, including any expert opinions.</p>
"user-independent event"	19	<p><u>Proposed Construction:</u></p> <p>An event that is not caused by an immediately preceding user input.</p> <p><u>Intrinsic Evidence:</u></p> <p>'105 Patent at 12:50–54; 12:56–67; '105 Patent at Figures 1, 7, 8A, 8B.</p> <p><u>Extrinsic Evidence:</u></p> <p>Immersion may offer an expert declaration by Dr. Sigurd Meldal as to how skilled artisans would have understood this term(s) in light of the patent specification, prosecution history and relevant standards at the time of the invention. Immersion may also offer an expert declaration by Dr. Meldal as to the level of ordinary skill in the relevant art and the technology that underlies the alleged inventions, as well as in rebuttal to any extrinsic evidence offered by Fitbit, including any expert opinions.</p>
"generate a force signal based on the input signal"	19	<p><u>Proposed Construction:</u></p> <p>This claim term should be afforded its plain and ordinary meaning. However, should the court decide to</p>

Claim Term	Claim(s)	Immersion's Proposed Construction
		<p>construe this term, then Immersion proposes the following construction:</p> <p>Generate a signal to an actuator that defines the form of a haptic effect, based at least in part on the input signal.</p> <p><u>Intrinsic Evidence:</u></p> <p>'105 Patent at 5:6–17; 13:36–39; '105 Patent at Figures 1, 7, 8A, 8B; cited U.S. Pat. No. 5,959,613 at 12:66–13:4; 14:30–56.</p> <p><u>Extrinsic Evidence:</u></p> <p>Immersion may offer an expert declaration by Dr. Sigurd Meldal as to how skilled artisans would have understood this term(s) in light of the patent specification, prosecution history and relevant standards at the time of the invention. Immersion may also offer an expert declaration by Dr. Meldal as to the level of ordinary skill in the relevant art and the technology that underlies the alleged inventions, as well as in rebuttal to any extrinsic evidence offered by Fitbit, including any expert opinions.</p>
<p>“one or more processors configured to receive an input signal and generate a force signal based on the input signal, wherein the input signal is associated with a user-independent event”</p>	<p>19</p>	<p><u>Proposed Construction:</u></p> <p>Immersion maintains that this claim term should not be governed by 35 U.S.C. § 112(6), despite Fitbit's suggestion otherwise. This claim term should be afforded its plain and ordinary meaning.</p> <p>However, should the court decide to construe this term, then Immersion proposes the following construction:</p> <p>Functions: receive an input signal and generate a force signal based on the input signal</p> <p>Structure: '105 Patent at 5:6–17, 5:64–6:43, 15:1–14; and equivalents thereof.</p> <p><u>Intrinsic Evidence:</u></p> <p>'105 Patent at 5:6–17, 5:64–6:43, 15:1–14.</p> <p><u>Extrinsic Evidence:</u></p> <p>Immersion may offer an expert declaration by Dr. Sigurd Meldal as to how skilled artisans would have understood this term(s) in light of the patent specification, prosecution history and relevant standards at the time of the invention. Immersion may also offer</p>

Claim Term	Claim(s)	Immersion's Proposed Construction
		an expert declaration by Dr. Meldal as to the level of ordinary skill in the relevant art and the technology that underlies the alleged inventions, as well as in rebuttal to any extrinsic evidence offered by Fitbit, including any expert opinions.

II. U.S. Patent No. 8,351,299 ('299 Patent)

Claim Term	Claim(s)	Immersion's Proposed Construction
"periodic"	14,15,16	<p><u>Proposed Construction:</u></p> <p>This claim term should be afforded its plain and ordinary meaning. However, should the court decide to construe this term, then Immersion proposes the following construction:</p> <p>An output that occurs one or more times at a regular interval that may be adjustable.</p> <p><u>Intrinsic Evidence:</u></p> <p>'299 Patent at 8:41–47; 8:55–58; '299 Patent at Figure 5.</p> <p><u>Extrinsic Evidence:</u></p> <p>The Authoritative Dictionary of IEEE Standard Terms (7th ed. 2000) ("periodic check (test, measurement, and diagnostic equipment)").</p> <p>The Webster's Encyclopedic Unabridged Dictionary of the English Language (1996) ("periodic").</p> <p>The American Heritage Dictionary (4th ed. 2001) ("periodic").</p> <p>Immersion may offer an expert declaration by Dr. Sigurd Meldal as to how skilled artisans would have understood this term(s) in light of the patent specification, prosecution history and relevant standards at the time of the invention. Immersion may also offer an expert declaration by Dr. Meldal as to the level of ordinary skill in the relevant art and the technology that underlies the alleged inventions, as well as in rebuttal to any extrinsic evidence offered by Fitbit, including any expert opinions.</p>
"a processing device that receives the sensor output and accumulates counts associated with the sensor output, the processing device"	14	<p><u>Proposed Construction:</u></p> <p>Immersion maintains that this claim term should not be governed by 35 U.S.C. § 112(6), despite Fitbit's suggestion otherwise. This claim term should be afforded its plain and ordinary meaning.</p>

Claim Term	Claim(s)	Immersion's Proposed Construction
<p>providing an output to the vibrotactile device once a threshold associated with the accumulated counts is reached.”</p>		<p>However, should the court decide to construe this term, then Immersion proposes the following construction:</p> <p>Function: receive the sensor output, accumulate counts, and provide an output once a threshold associated with accumulated counts is reached</p> <p>Structure: Processing device 22 in Fig. 2, Fig. 4, and Fig. 5, and equivalents thereof.</p> <p><u>Intrinsic Evidence:</u></p> <p>'299 Patent at 4:42–54; 6:25–28; 7:4–12; '299 Patent at Figures 2, 3 (i.e. algorithm disclosed in Fig. 3), 4, and 5.</p> <p><u>Extrinsic Evidence:</u></p> <p>Immersion may offer an expert declaration by Dr. Sigurd Meldal as to how skilled artisans would have understood this term(s) in light of the patent specification, prosecution history and relevant standards at the time of the invention. Immersion may also offer an expert declaration by Dr. Meldal as to the level of ordinary skill in the relevant art and the technology that underlies the alleged inventions, as well as in rebuttal to any extrinsic evidence offered by Fitbit, including any expert opinions.</p>
<p>“a vibrotactile device that provides a haptic output based on the sensor output if the vibrotactile device receives the sensor output before the timer output and provides the haptic output based on the timer output if the vibrotactile device receives the timer output before the sensor output.”</p>	20	<p><u>Proposed Construction:</u></p> <p>Immersion maintains that this claim term should not be governed by 35 U.S.C. § 112(6), despite Fitbit's suggestion otherwise. This claim term should be afforded its plain and ordinary meaning.</p> <p>However, should the court decide to construe this term, then Immersion proposes the following construction:</p> <p>Function: provide a haptic output based on the sensor output if the sensor output is received before the timer output and provide a haptic output based on the timer output if the timer output is received before the sensor output</p> <p>Structure: Vibrotactile device 420 in Figs. 4 and 5, and equivalents thereof.</p> <p><u>Intrinsic Evidence:</u></p> <p>'299 Patent at 7:62–67; 8:14–17; '299 Patent at Figures 4 and 5.</p> <p><u>Extrinsic Evidence:</u></p>

Claim Term	Claim(s)	Immersion's Proposed Construction
		Immersion may offer an expert declaration by Dr. Sigurd Meldal as to how skilled artisans would have understood this term(s) in light of the patent specification, prosecution history and relevant standards at the time of the invention. Immersion may also offer an expert declaration by Dr. Meldal as to the level of ordinary skill in the relevant art and the technology that underlies the alleged inventions, as well as in rebuttal to any extrinsic evidence offered by Fitbit, including any expert opinions.

III. U.S. Patent No. 8,638,301 ('301 Patent)

Claim Term	Claim(s)	Immersion's Proposed Construction
"first data signal"	27	<p><u>Proposed Construction:</u></p> <p>A set of data that relates to a user interaction with a touch-sensitive interface of a mobile device.</p> <p><u>Intrinsic Evidence:</u></p> <p>'301 Patent at 25:6–14; '301 Patent at Figure 18;</p> <p><u>Extrinsic Evidence:</u></p> <p>The Signal Processing and Linear Systems (1998) ("signal").</p> <p>Immersion may offer an expert declaration by Dr. Sigurd Meldal as to how skilled artisans would have understood this term(s) in light of the patent specification, prosecution history and relevant standards at the time of the invention. Immersion may also offer an expert declaration by Dr. Meldal as to the level of ordinary skill in the relevant art and the technology that underlies the alleged inventions, as well as in rebuttal to any extrinsic evidence offered by Fitbit, including any expert opinions.</p>
"detect an interaction with the first mobile device"	27	<p><u>Proposed Construction:</u></p> <p>Detect a communication between a computer system and a user with the first mobile device.</p> <p><u>Intrinsic Evidence:</u></p> <p>'301 Patent at 24:36–50; '301 Patent at Figures 9, 13, 18;</p> <p><u>Extrinsic Evidence:</u></p> <p>The Authoritative Dictionary of IEEE Standard Terms (7th ed. 2000) ("user interaction").</p> <p>Immersion may offer an expert declaration by Dr. Sigurd</p>

1	Claim Term	Claim(s)	Immersion's Proposed Construction
2			Meldal as to how skilled artisans would have understood this term(s) in light of the patent specification, prosecution history and relevant standards at the time of the invention. Immersion may also offer an expert declaration by Dr. Meldal as to the level of ordinary skill in the relevant art and the technology that underlies the alleged inventions, as well as in rebuttal to any extrinsic evidence offered by Fitbit, including any expert opinions.
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6	"determine a change in a display signal"	27	<p><u>Proposed Construction:</u></p> <p>This claim term should be afforded its plain and ordinary meaning. However, should the court decide to construe this term, then Immersion proposes the following construction: Determine changes in a set of data sent to a display of a mobile device.</p> <p><u>Intrinsic Evidence:</u></p> <p>'301 Patent at 24:51–62; '301 Patent at Figures 1, 9, 18;</p> <p><u>Extrinsic Evidence:</u></p> <p>The Signal Processing and Linear Systems (1998) ("signal").</p> <p>The Authoritative Dictionary of IEEE Standard Terms (7th ed. 2000) ("display").</p> <p>Immersion may offer an expert declaration by Dr. Sigurd Meldal as to how skilled artisans would have understood this term(s) in light of the patent specification, prosecution history and relevant standards at the time of the invention. Immersion may also offer an expert declaration by Dr. Meldal as to the level of ordinary skill in the relevant art and the technology that underlies the alleged inventions, as well as in rebuttal to any extrinsic evidence offered by Fitbit, including any expert opinions.</p>
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21	"second data signal"	31	<p><u>Proposed Construction:</u></p> <p>A set of data that relates to a user interaction and a movement of a mobile device.</p> <p><u>Intrinsic Evidence:</u></p> <p>'301 Patent at 24:3–25; '301 Patent at Figure 18;</p> <p><u>Extrinsic Evidence:</u></p> <p>The Signal Processing and Linear Systems (1998) ("signal").</p> <p>Immersion may offer an expert declaration by Dr. Sigurd</p>
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Claim Term	Claim(s)	Immersion's Proposed Construction
		Meldal as to how skilled artisans would have understood this term(s) in light of the patent specification, prosecution history and relevant standards at the time of the invention. Immersion may also offer an expert declaration by Dr. Meldal as to the level of ordinary skill in the relevant art and the technology that underlies the alleged inventions, as well as in rebuttal to any extrinsic evidence offered by Fitbit, including any expert opinions.
<p>“a processor configured to: receive a first sensor signal from a first sensor, the first sensor configured to detect a movement of a first mobile device; receive a second sensor signal from a second sensor, the second sensor configured to detect an interaction with the first mobile device; receive a first data signal from a network interface, the network interface configured to receive signals transmitted by a second mobile device; determine a change in a display signal based at least in part on the first data signal and the second sensor signal; determine a haptic effect based at least in part on the first data signal; and outputting the haptic effect.”</p>	27	<p><u>Proposed Construction:</u></p> <p>Immersion maintains that this claim term should not be governed by 35 U.S.C. § 112(6), despite Fitbit's suggestion otherwise. This claim term should be afforded its plain and ordinary meaning.</p> <p>However, should the court decide to construe this term, then Immersion proposes the following construction:</p> <p>Functions: receive a first sensor signal from a first sensor, and detect a movement of a first mobile device; receive a second sensor signal from a second sensor, and detect an interaction with the first mobile device; receive a first data signal from a network interface, and receive signals transmitted by a second mobile device; determine a change in a display signal based at least in part on the first data signal and the second sensor signal; determine a haptic effect based at least in part on the first data signal</p> <p>Structure: Processor 110 and equivalents thereof.</p> <p><u>Intrinsic Evidence:</u></p> <p>'301 Patent at 3:1–9; 14:19–28; 23:50–61; 24:20–35; 25:65–26:17; 24:3–25:5; 8:34–44; 7:35–39; 24:51–62; 3:58–60; 3:65–67; 13:51–54; 11:63–12:5; 25:33–48; 18:21–23; 21:36–38; 25:49–56; '301 Patent at Figure 1;</p> <p><u>Extrinsic Evidence:</u></p> <p>The Authoritative Dictionary of IEEE Standard Terms (7th ed. 2000) (“processor”; “configure”).</p> <p>The American Heritage Dictionary (4th ed. 2001) (“configure”).</p> <p>The Webster's Encyclopedic Unabridged Dictionary of the English Language (1996) (“configure”).</p> <p>Immersion may offer an expert declaration by Dr. Sigurd Meldal as to how skilled artisans would have understood this term(s) in light of the patent specification, prosecution history</p>

Claim Term	Claim(s)	Immersion's Proposed Construction
		and relevant standards at the time of the invention. Immersion may also offer an expert declaration by Dr. Meldal as to the level of ordinary skill in the relevant art and the technology that underlies the alleged inventions, as well as in rebuttal to any extrinsic evidence offered by Fitbit, including any expert opinions.

IV. Immersion's Preliminary Identification of Extrinsic Evidence¹

Immersion identifies the following extrinsic evidence upon which it may rely to support its claim construction positions:

A. References

1. The American Heritage Dictionary (4th ed. 2001).
2. The Authoritative Dictionary of IEEE Standard Terms (7th ed. 2000).
3. Signal Processing and Linear Systems (1998).
4. The Webster's Encyclopedic Unabridged Dictionary of the English Language (1996).

These References are produced by Immersion bearing Bates numbers IMM00007528–IMM00007568.

B. Expert Testimony

Immersion may offer the testimony (through a declaration or at claim construction hearing) of one or more experts. Said expert may include Dr. Sigurd Meldal. Dr. Meldal may provide testimony regarding the technology that underlies the alleged inventions, how the patent, claims and intrinsic or extrinsic evidence would be understood by one of ordinary skill in the art, and the meaning of the disputed claim terms, phrases, and clauses to one of ordinary skill in the art, or any other opinions or testimony useful to the Court in conducting the requisite claim construction. Dr. Meldal may also rebut any extrinsic evidence offered by Fitbit, including any expert opinions.

¹ Immersion discloses that all references cited within the specifications and file histories of the asserted patents are intrinsic evidence and may be relied on for claim construction in this case.

1 DATED: January 25, 2018

Respectfully submitted,

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