

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

MAXELL, LTD.,

Plaintiff,

v.

APPLE INC.,

Defendants.

Case No. 5:19-cv-00036-RWS

JURY TRIAL DEMANDED

P.R. 4-3 JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT

Pursuant to P.R. 4-3 and the Docket Control Order (*see, e.g.*, Dkt. 46), Plaintiff Maxell, Ltd. (“Plaintiff” or “Maxell”) and Defendant Apple Inc., (“Defendant” or “Apple”) hereby file this joint claim construction and prehearing statement.

The claim terms listed below occur in U.S. Patent Nos. 6,748,317 (“the ’317 Patent”); 6,580,999 (“the ’999 Patent”); 6,430,498 (“the ’498 Patent”); 8,339,493 (“the ’493 Patent”); 6,329,794 (“the ’794 Patent”); 6,408,193 (“the ’193 Patent”); 6,928,306 (“the ’306 Patent”); 10,084,991 (“the ’991 Patent”); 7,116,438 (“the ’438 Patent”); and 10,212,586 (“the ’586 Patent”) which are asserted against Apple.

I. HIGH PRIORITY TERMS WHOSE CONSTRUCTION WILL BE MOST SIGNIFICANT TO THE RESOLUTION OF THE CASE

Maxell’s Position: Maxell believes that there are no claim dispositive terms.

Apple’s Position: Apple believes that Terms 1-12 and 14 in Section IV are potentially claim dispositive.

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

The Parties have agreed to the constructions as set forth in the following chart:

NO.	TERM	AGREED CONSTRUCTION
1	<p>“a device connected to a server . . . said device connected to said server outputting said location information and said direction information and receiving retrieved information based on said outputted information at said server”</p> <p>’317 Patent: claim 6</p>	<p>Function: outputting said location information and said direction information and receiving retrieved information based on said outputted information at said server.</p> <p>Structure: CPU 71 and device for data communication 76 of a portable telephone and a Personal Handyphone System (PHS) terminal (Figure 10, ’317 Patent at 9:40-50); or equivalents thereof¹</p>
2	<p>“a device for getting direction information denoting an orientation of said portable terminal”</p> <p>’498: claims 1, 5, 10 ’317: claims 1, 6, 10 ’999: claims 1, 5, 6</p>	<p>Function: getting direction information denoting an orientation of said portable terminal</p> <p>Structure: a compass, gyroscope, and/or sensor such as a clinometer in conjunction with a CPU, or equivalents thereof.</p>
3	<p>“an image-instability detector”</p> <p>’493 Patent: claims 4, 6, 11</p>	<p>“a detector, such as a gyroscopic sensor or the like, capable of detecting an image instability of the electric camera”</p>
4	<p>“an image-instability of the electric camera”</p> <p>’493 Patent: claims 4, 6, 11</p>	<p>“instability caused by vertical and/or horizontal movement of the electric camera”</p>

¹ The parties agree that the claimed structure includes: (1) a CPU 71 and (2) a device for data communication 76 “of a portable telephone and a Personal Handyphone System (PHS) terminal”; or equivalents thereof.

NO.	TERM	AGREED CONSTRUCTION
5	“function devices(s)” '794 Patent: claim 1	Function: equipped with independent functions Structure: modem devices, audio communication devices and videophone devices; or equivalents thereof
6	“component device” / “component devices for performing different functions in the device” '794 Patent: claim 9	Function: performing different functions Structure: modem devices, audio communication devices and videophone devices; or equivalents thereof
7	“a cellular telephone adapted to be used in a CDMA system, comprising” '193 Patent: claims 1 and 7	The preamble is limiting
8	“variable amplitude amplifier” '193 Patent: claims 1, 7	an amplifier whose output amplitude may be varied and that provides a variable gain in response to a control signal
9	“a function defining a relation between bias data and gain data stored in said memory” '193 Patent: claim 7	a relationship between bias data and gain data stored in memory such that each gain data value has a corresponding bias data value
10	“voice signal code” “voice code signal” '193 Patent: Claims 1, 7	The two terms have the same meaning
11	“a time zone which is set up in advance” '306 Patent: Claims 5, 14	a duration of time or a range of hours set up in advance
12	“an authentication process for allowance to use said display apparatus” '438 Patent: Claim 1	a process that authorizes the user to use the display apparatus

NO.	TERM	AGREED CONSTRUCTION
13	“an authentication process for allowance to use said information-processing terminal” '438 Patent: Claim 4	a process that authorizes the user to use the information-processing terminal

IV. CONSTRUCTIONS OF THOSE CLAIM TERMS, PHRASES, OR CLAUSES ON WHICH THE PARTIES DO NOT AGREE

Set forth below is each party's proposed construction of each disputed claim term, phrase, or clause, together with an identification of all references from the specification or prosecution history that support that construction, and an identification of any extrinsic evidence known to the party on which it intends to rely either to support its proposed construction of the claim or to oppose any other party's proposed construction of the claim, including, but not limited to, as permitted by law, dictionary definitions, citations to learned treatises and prior art, and testimony of percipient and expert witnesses.

NO.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
1	<p>“a device for getting location information denoting a present place of said portable terminal”</p> <p>'498: claims 1, 5, 10 '317: claims 1, 6, 10 '999: claims 1, 5, 6</p>	<p><u>Plaintiff's Construction</u></p> <p>Function: getting location information denoting a present place of said portable terminal</p> <p>Structure: a wireless or cellular antenna, a GPS, a PHS, or the like; such a data receiver as an infrared ray sensor, or the like; and a CPU for analyzing received data; or equivalents thereof.</p> <p><u>Defendants' Construction</u></p>	<p><u>Plaintiff's Evidence</u></p> <p>'498 Patent, Abstract, 2:44-3:20, 4:6-11, 5:48-65, 6:15-38, 6:66-7:10, 8:13-22, 9:28-51, 10:11-22, Figures 1 and 4-10, and corresponding disclosures in the '317 and '999 specifications.</p> <p>In addition, Maxell will present expert testimony from Dr. Craig Rosenberg in support of Maxell's proposed construction and addressing arguments presented by Apple's expert, if any. This testimony may include, at least, an explanation of the meaning of this term in the context of the subject matter disclosed in the asserted patents, a description of the state of the technology, and how a person of ordinary skill in the art would interpret the term at the time the application for the asserted patent was filed.</p> <p><u>Defendants' Evidence</u></p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
		<p>Function: getting location information denoting a present place of said portable terminal</p> <p>Structure: a wireless or cellular antenna, or a GPS, or a Personal Handyphone System (PHS); and an infrared ray sensor; and a control unit for analyzing received data, with the control unit calculating location information as disclosed in '498 at 5:48-56 and Fig. 2; or equivalents thereof</p>	<p>'498 Patent at Abstract; 1:10-13; 2:45-65; 4:9-11; 5:48-56; 9:39-44; 9:44-47; Fig. 10; and corresponding disclosures in the '317 and '999 specifications.</p> <p><i>ASUSTek Computer Inc. v. Maxell, Ltd.</i>, IPR2019-00071, Paper No. 2 (Oct. 16, 2018) ("ASUSTek IPR Petition"), and exhibits 1001-1023 thereto</p> <p><i>ASUSTek Computer Inc. v. Maxell, Ltd.</i>, IPR2019-00071, Paper No. 6 (Jan. 22, 2019) ("Maxell Preliminary Response")</p> <p><i>ASUSTek Computer Inc. v. Maxell, Ltd.</i>, IPR2019-00071, Paper No.7 (Mar. 14, 2019) ("Decision Denying Institution of <i>Inter Partes</i> Review")</p> <p>Michael Beigl et al., "A location model for communicating and processing of context," Personal and Ubiquitous Computing, Vol. 6, Issue 5-6, pp. 341-357 (2002) (APL-MAXELL_00802686-APL-MAXELL_802710)</p> <p>Robert L. French et al., "A comparison of IVHS Progress in the United States, Europe, and Japan" (Dec. 31, 1993) (APL-MAXELL_00802783-APL-MAXELL_00802998)</p> <p>Natalia Marmasse, "commotion: a context-aware communication system," Dissertation Mass. Inst. of Tech. (June 1999) (APL-MAXELL_00802999-APL-MAXELL_00803082)</p> <p>Thad Eugene Starner, "Wearable Computing and Contextual Awareness," Dissertation, Mass. Inst. of Tech. (June 1999) (APL-MAXELL_00803223-APL-MAXELL_00803470)</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
			<p>Thad Starner et al., “The Locust Swarm: An environmentally-powered, networkless location and messaging system,” IEEE (1997) (APL-MAXELL_00803221-APL-MAXELL_00803222)</p> <p>Roy Want et al., “The Active Badge Location System,” Olivetti Research Ltd. (1992) (APL-MAXELL_00803750-APL-MAXELL_00803759)</p> <p>Gregory D. Abowd et al., “Cyberguide: A Mobile Context-Aware Tour Guide,” Baltzer Journals (September 23, 1996) (APL-MAXELL_00713087-APL_MAXELL_00713107)</p> <p>Karl Rehrl et al., “Combined indoor/outdoor Smartphone navigation for public transport travelers,” Geowissenschaftliche Mitteilungen, Heft Nr. 74, 2005 (Proceedings of the 3rd Symposium on LBS & TeleCartography) (2005) (APL-MAXELL_00803201-APL-MAXELL_00803208)</p> <p>U.S. Patent No. 5,589,835 to Gildea et al. (APL-MAXELL_00718169-APL-MAXELL_0071877)</p> <p>Testimony of Dr. Joseph Paradiso (including declaration and deposition testimony). Dr. Paradiso will explain the technology, the state of the art at the time the patent application was filed, the meaning of claim terms or phrases as they would be understood by those of ordinary skill in the art at the time of the invention in the context of the patent specification and other intrinsic/extrinsic evidence, how those of ordinary skill in the art at the time of the invention would have understood statements made by the patentee during prosecution of the applications, and the level of ordinary skill in the relevant art. Dr. Paradiso may also offer a declaration, if necessary, to respond to Plaintiff’s contentions, any expert testimony on behalf of Plaintiff, or for the Court’s benefit.</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
2	<p>“a device for getting a location information of another portable terminal from said another portable terminal via connected network”</p> <p>’317: claim 10 ’999: claim 6</p>	<p><u>Plaintiff’s Construction</u></p> <p>Function: getting a location information of another portable terminal from said another portable terminal via connected network</p> <p>Structure: CPU and device for data communication 76 of a portable terminal; or equivalents thereof</p> <p><u>Defendants’ Construction</u></p> <p>Function: getting a location information of another portable terminal from said another portable terminal via connected network</p> <p>Structure: CPU 71 and device for data communication 76 of a portable telephone and a Personal Handyphone System (PHS) terminal (Figure 10, ’317 Patent at 9:40–50); or equivalents thereof</p>	<p><u>Plaintiff’s Evidence</u></p> <p>’317 Patent, Abstract, 1:10-15, 2:23-26, 2:51-3:1, 3:43-66, 4:14-39, 5:17-21, 5:64-6:4, 8:17-9:39, 10:29-34, Figures 5-7, 9, 10, and corresponding disclosures in the ’999 specification.</p> <p>In addition, Maxell will present expert testimony from Dr. Craig Rosenberg in support of Maxell’s proposed construction and addressing arguments presented by Apple’s expert, if any. This testimony may include, at least, an explanation of the meaning of this term in the context of the subject matter disclosed in the asserted patents, a description of the state of the technology, and how a person of ordinary skill in the art would interpret the term at the time the application for the asserted patent was filed.</p> <p><u>Defendants’ Evidence</u></p> <p>’317 Patent at Fig. 10; 5:66-67; 9:42-43; 9:40-51</p> <p>Japanese Patent Application Publication No. H10-197277 (“Maruyama”) (APL-MAXELL_00715620-APL-MAXELL_00715677)</p> <p>Japanese Patent Application Publication No. H10-285059 (“Nakayama”) (APL-MAXELL_00715652-APL-MAXELL_00715689)</p> <p>U.S. Patent No. 6,882,326 to Hirayama et al.</p> <p><i>Maxell LTD. v. Huawei Device USA Inc. et al.</i>, Case No. 5:16-cv-00178-RWS, Dkt. No. 175, Claim Construction Memorandum and Order (January 31, 2018)</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
			<i>Maxell LTD. v. Huawei Device USA Inc. et al.</i> , Case No. 5:16-cv-00178-RWS, Dkt. No. 138, Transcript of Markman Proceedings held 11/29/17 (Dec. 18, 2017) at 126:13-16
3	<p>“a device for getting the location information of another portable terminal”</p> <p>’999: claims 1, 5</p>	<p><u>Plaintiff’s Construction</u></p> <p>Function: getting a location information of another portable terminal</p> <p>Structure: CPU and device for data communication 76 of a portable terminal; or equivalents thereof</p> <p><u>Defendants’ Construction</u></p> <p>Function: getting a location information of another portable terminal</p> <p>Structure: CPU 71 and device for data communication 76 of a portable telephone and a Personal Handyphone System (PHS) terminal (Figure 10, ’317 Patent at 9:40–50); or equivalents thereof</p>	<p><u>Plaintiff’s Evidence</u></p> <p>’317 Patent, Abstract, 1:10-15, 2:23-26, 2:51-3:1, 3:43-66, 4:14-39, 5:17-21, 5:64-6:4, 8:17-9:39, 10:29-34, Figures 5-7, 9, 10, and corresponding disclosures in the ’999 specification.</p> <p>In addition, Maxell will present expert testimony from Dr. Craig Rosenberg in support of Maxell’s proposed construction and addressing arguments presented by Apple’s expert, if any. This testimony may include, at least, an explanation of the meaning of this term in the context of the subject matter disclosed in the asserted patents, a description of the state of the technology, and how a person of ordinary skill in the art would interpret the term at the time the application for the asserted patent was filed.</p> <p><u>Defendants’ Evidence</u></p> <p>’317 Patent at Fig. 10; 5:66-67; 9:42-43; 9:40-51</p> <p>Japanese Patent Application Publication No. H10-197277 (“Maruyama”) (APL-MAXELL_00715620-APL-MAXELL_00715677)</p> <p>Japanese Patent Application Publication No. H10-285059 (“Nakayama”) (APL-MAXELL_00715652-APL-MAXELL_00715689)</p> <p>U.S. Patent No. 6,882,326 to Hirayama et al.</p>

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			<p><i>Maxell LTD. v. Huawei Device USA Inc. et al.</i>, Case No. 5:16-cv-00178-RWS, Dkt. No. 175, Claim Construction Memorandum and Order (January 31, 2018)</p> <p><i>Maxell LTD. v. Huawei Device USA Inc. et al.</i>, Case No. 5:16-cv-00178-RWS, Dkt. No. 138, Transcript of Markman Proceedings held 11/29/17 (Dec. 18, 2017) at 126:13-16</p>
4	<p>“a device for retrieving a route from said present place to said destination”</p> <p>’317: claims 15, 18</p>	<p><u>Plaintiff’s Construction</u></p> <p>Function: retrieving a route from said present place to said destination</p> <p>Structure: CPU and device for data communication 76 of a portable terminal; or equivalents thereof</p> <p><u>Defendants’ Construction</u></p> <p>Function: retrieving a route from said present place to said destination</p> <p>Structure: CPU 71 and device for data communication 76 of a portable telephone and a Personal Handyphone System (PHS) terminal (Figure 10, ’317 Patent at</p>	<p><u>Plaintiff’s Evidence</u></p> <p>’317 Patent, Abstract, 1:10-15, 2:23-26, 2:51-3:1, 3:43-66, 4:14-39, 5:17-21, 5:64-6:4, 6:9-18, 8:17-9:39, 9:40-63, 10:29-34, Figures 5-7, 9, 10, and corresponding disclosures in the ’999 specification.</p> <p>In addition, Maxell will present expert testimony from Dr. Craig Rosenberg in support of Maxell’s proposed construction and addressing arguments presented by Apple’s expert, if any. This testimony may include, at least, an explanation of the meaning of this term in the context of the subject matter disclosed in the asserted patents, a description of the state of the technology, and how a person of ordinary skill in the art would interpret the term at the time the application for the asserted patent was filed.</p> <p><u>Defendants’ Evidence</u></p> <p>’317 Patent at Fig. 10; 5:66-67; 9:42-43; 9:40-51</p> <p>Japanese Patent Application Publication No. H10-197277 (“Maruyama”) (APL-MAXELL_00715620-APL-MAXELL_00715677)</p>

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		9:40–50); or equivalents thereof	<p>Japanese Patent Application Publication No. H10-285059 (“Nakayama”) (APL-MAXELL_00715652-APL-MAXELL_00715689)</p> <p>U.S. Patent No. 6,882,326 to Hirayama et al.</p> <p><i>Maxell LTD. v. Huawei Device USA Inc. et al.</i>, Case No. 5:16-cv-00178-RWS, Dkt. No. 175, Claim Construction Memorandum and Order (January 31, 2018)</p> <p><i>Maxell LTD. v. Huawei Device USA Inc. et al.</i>, Case No. 5:16-cv-00178-RWS, Dkt. No. 138, Transcript of Markman Proceedings held 11/29/17 (Dec. 18, 2017) at 126:13-16</p>
5	<p>“effective scanning lines ... of a display screen”</p> <p>’493: claim 1</p>	<p><u>Plaintiff’s Construction</u></p> <p>the number of lines on a display screen corresponding to an actually displayed image</p> <p><u>Defendants’ Construction</u></p> <p>the lines displayed in a single field of an interlaced scanning display</p>	<p><u>Plaintiff’s Evidence</u></p> <p>’493 Patent at 1:18-43, 1:30-2:17, 2:26-35, 2:62-3:37, 4:30-6:7, 6:39-59, 7:9-26, 7:31-65, 8:8-15, 9:25-49, 10:3-12, 10:13-32, 11:59-12:14, 12:37-48, 13:16-22, 15:4-21, Figures 3, 5</p> <p>JP H11-187306</p> <p>JP 2008-206146</p> <p>US 6,018,363 (“Horii”)</p> <p>Defendant Apple Inc.’s Invalidity Contentions Pursuant to Patent Local Rules 3-3 and 3-4 (and exhibits thereto)</p> <p><i>Maxell, Ltd. v. BLU Products</i>, 18-cv21231 (Dkt. No. 69) (Claim Construction Order)</p> <p>In addition, Maxell will present expert testimony from Dr. Vijay Madisetti in support of Maxell’s proposed construction and addressing arguments presented by Apple’s expert, if any. This testimony may include, at least, an explanation of the meaning of this term in the context of the subject matter disclosed in the asserted patents, a description of the</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
			<p>state of the technology, and how a person of ordinary skill in the art would interpret the term at the time the application for the asserted patent was filed.</p> <p><u>Defendants' Evidence</u></p> <p>'493 Patent at Abstract; 1:30-43; 1:51-58; 4:34-48; 4:64-5:6; 5:19-62; 7:31-39; 7:40-8:7, 8:8-33; 8:51-9:36; 10:3-12; 10:18-50; 10:51-11:8; 13:23-14:9; Figs. 2, 4, 5, 6, 8, Claims 1, 5, 8, 13.</p> <p>JP H11-187306</p> <p>JP H09-270959</p> <p>U.S. 4,434,435 to Fujimoto</p> <p>EP 0,840,503 to Kijima</p> <p>U.S. Patent No. 6,661,451 to Kijima</p> <p>U.S. Patent No. 4,054,915 to Sugihara</p> <p>U.S. Patent No. 4,620,134 to Peels</p> <p>U.S. Patent No. 6,002,203</p> <p>U.S. Patent No. 4,541,010</p> <p>U.S. Patent No. 6,700,607 to Misawa</p> <p>U.S. Patent 5,657,082 to Harada</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
			<p>U.S. Patent No. 5,668,597 to Parulski</p> <p>U.S. Patent No. 5,828,406 to Parulski</p> <p>U.S. Patent No. 5,374,955 to Furuhata</p> <p>U.S. Patent No. 6,720,996 to Suyama</p> <p>U.S. Patent No. 4,910,599 to Hashimoto</p> <p>U.S. Patent No. 5,264,939 to Chang</p> <p>U.S. Patent No. 5,450,129 to Matoba</p> <p>U.S. Patent No. 5,986,698 to Nobuoka.</p> <p>U.S. Patent No. 6,122,007 to Ishibashi</p> <p>U.S. Patent No. 6,181,375 to Mitsui</p> <p>U.S. Patent No. 6,529.236 to Watanabe</p> <p>U.S. Patent No. 6,580,457 to Armstrong</p> <p>U.S. Patent App. Pub. No. 2001/0043276 to Ueno</p> <p>U.S. Patent App. Pub. No. 2002/0118291 to Ishigami</p> <p>U.S. 6,765,616 Prosecution History, Office Action dated November 26, 2013, and references cited therein</p> <p>U.S. 6,765,616 Prosecution History, Amendment and Remarks dated February 26, 2004</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
			<p>U.S. 8,059,177 Prosecution History, Preliminary Amendment dated September 12, 2003</p> <p>U.S. 8,059,177 Prosecution History, Requirement for Restriction/Election dated March 13, 2008</p> <p>U.S. 8,059,177 Prosecution History, Response to Election/Restriction dated April 11, 2008</p> <p>U.S. 8,059,177 Prosecution History, Office Action dated August 11, 2008, and references cited therein</p> <p>U.S. 8,059,177 Prosecution History, Amendment and Remarks dated November 10, 2008</p> <p>U.S. 8,059,177 Prosecution History, Office Action dated November 10, 2009, and references cited therein</p> <p>U.S. 8,059,177 Prosecution History, Amendment and Remarks dated May 10, 2010</p> <p>U.S. 8,339,493 Prosecution History, Office Action dated March 14, 2012, and references cited therein</p> <p>U.S. 8,339,493 Prosecution History, Amendments and Remarks dated July 16, 2012</p> <p><i>Maxell Ltd. v. Huawei Device USA Inc. et al.</i>, Case No. 5:16-cv-00178-RWS, Dkt. No. 175, Claim Construction Memorandum and Order (January 31, 2018)</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
			<p>Yiyan Wu et al., “Overview of Digital Television Development Worldwide, Proceedings of the IEEE, Vol. 94, NO. 1 (Jan. 2006)</p> <p>ITU-T Recommendation J.182, Series J: Cable Networks and Transmission of Television, Sound Programme and Other Multimedia Signals (03/2001)</p> <p>IPR No. 2018-00908 (U.S. Patent No. 9,100,604), Patent Owner’s Preliminary Response to Petition For Inter partes Review Of U.S. Patent No. 9,100,604 (October 17, 2018) (MAXELL_APPLE0123853-MAXELL_APPLE0123888)</p> <p>IPR No. 2018-00909 (U.S. Patent No. 9,100,604), Patent Owner’s Preliminary Response to Petition For Inter partes Review Of U.S. Patent No. 9,100,604 (October 17, 2018)</p> <p>IPR No. 2018-00910 (U.S. Patent No. 8,059,177), Patent Owner’s Preliminary Response to Petition For Inter partes Review Of U.S. Patent No. 8,059,177 (November 9, 2018)</p> <p>Testimony of Dr. Alan Bovik (including declaration and deposition testimony). Dr. Bovik will explain the technology, the state of the art at the time the patent application was filed, the meaning of claim terms or phrases as they would be understood by those of ordinary skill in the art at the time of the invention, how those of ordinary skill in the art at the time of the invention would have understood statements made by the patentee during prosecution of the applications, and the level of ordinary skill in the relevant art. Dr. Bovik may also offer a declaration, if necessary, to respond to Plaintiff’s contentions, any expert testimony on behalf of Plaintiff, or for the Court’s benefit.</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
6	<p>“mixing . . . signal charges accumulated in the N number of vertically arranged pixel lines” / “mixed . . . from the N number of vertically arranged pixel lines”</p> <p>’493 Patent: claims 1, 5, 10</p>	<p><u>Plaintiff’s Construction</u></p> <p>mixing . . . signal charges means combining signal charges from multiple pixels / mixed means combined</p> <p><u>Defendants’ Construction</u></p> <p>“mixing” / “mixed” means collecting charges from multiple pixels for combined transfer / collected</p>	<p><u>Plaintiff’s Evidence</u></p> <p>’493 Patent at Abstract, 1:18-31, 2:44-53, 2:62-3:2, 4:30-65, 4:66-5:18, 5:34-6:7, 6:39-57, 7:31-65, 8:8-41, 8:51-9:2, 9:30-36, 9:58-10:12, 10:6-32, 11:59-12:14, 12:37-48, 13:16-22, 14:10-32, 14:52-55, 15:4-21, Figures 3, 5, 6</p> <p>Defendant Apple Inc.’s Invalidity Contentions Pursuant to Patent Local Rules 3-3 and 3-4 (and exhibits thereto)</p> <p>US 7,158,158</p> <p>US 2013/0084003</p> <p>JP H09-270959</p> <p>EP 0 822 724</p> <p>IPR2018-00236, Paper Nos. 1, 9, Ex. 1002.</p> <p>Authoritative Dictionary of IEEE Standards Terms (7th ed.; 2000), p. 827 (“picture element”)</p> <p><u>Defendants’ Evidence</u></p> <p>’493 Patent at Abstract, 1:18–31; 2:1–25; 2:26–53; 2:62–3:2; 3:8–15; 4:30–65; 4:66–5:18; 5:34–6:7; 6:39–57; 7:40–8:7; 10:3–12; 10:18–58; Figures 2, 3, 4, 6, 8, 10</p> <p>JP H11-187306</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
			<p>JP H09-270959</p> <p>U.S. 4,434,435 to Fujimoto</p> <p>EP 0,840,503 to Kijima</p> <p>U.S. Patent No. 6,661,451 to Kijima</p> <p>U.S. Patent No. 4,054,915 to Sugihara</p> <p>U.S. Patent No. 4,620,134 to Peels</p> <p>U.S. Patent No. 6,002,203.</p> <p>U.S. Patent No. 4,541,010.</p> <p>U.S. Patent No. 6,700,607 to Misawa</p> <p>U.S. Patent 5,657,082 to Harada</p> <p>U.S. Patent No. 5,668,597 to Parulski</p> <p>U.S. Patent No. 5,828,406 to Parulski</p> <p>U.S. Patent No. 5,374,955 to Furuhata</p> <p>U.S. Patent No. 6,720,996 to Suyama</p> <p>U.S. Patent No. 4,910,599 to Hashimoto</p> <p>U.S. Patent No. 5,264,939 to Chang</p> <p>U.S. Patent No. 5,450,129 to Matoba</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
			<p>U.S. Patent No. 5,986,698 to Nobuoka.</p> <p>U.S. Patent No. 6,122,007 to Ishibashi</p> <p>U.S. Patent No. 6,181,375 to Mitsui</p> <p>U.S. Patent No. 6,529,236 to Watanabe .</p> <p>U.S. Patent No. 6,580,457 to Armstrong</p> <p>U.S. Patent App. Pub. No. 2001/0043276 to Ueno</p> <p>U.S. Patent App. Pub. No. 2002/0118291 to Ishigami</p> <p>U.S. 6,765,616 Prosecution History, Office Action dated November 26, 2013, and references cited therein</p> <p>U.S. 6,765,616 Prosecution History, Amendment and Remarks dated February 26, 2004</p> <p>U.S. 8,059,177 Prosecution History, Preliminary Amendment dated September 12, 2003</p> <p>U.S. 8,059,177 Prosecution History, Requirement for Restriction/Election dated March 13, 2008</p> <p>U.S. 8,059,177 Prosecution History, Response to Election/Restriction dated April 11, 2008</p> <p>U.S. 8,059,177 Prosecution History, Office Action dated August 11, 2008, and references cited therein</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
			<p>U.S. 8,059,177 Prosecution History, Amendment and Remarks dated November 10, 2008</p> <p>U.S. 8,059,177 Prosecution History, Office Action dated November 10, 2009, and references cited therein</p> <p>U.S. 8,059,177 Prosecution History, Amendment and Remarks dated May 10, 2010</p> <p>U.S. 8,339,493 Prosecution History, Office Action dated March 14, 2012, and references cited therein</p> <p>U.S. 8,339,493 Prosecution History, Amendments and Remarks dated July 16, 2012</p> <p>Merriam-Webster's Collegiate Dictionary (1998) (defining "mix" as "1. to combine or blend into one mass" or "2. to combine with another")</p> <p>Oxford American College Dictionary (2002) (defining "mix" as "combine or put together to form one substance or mass")</p> <p>Oxford English Reference Dictionary (1996) (defining "mix" as "combine or put together (two or more substances or things) so that the constituents of each are diffused among those of the others ... combine (an activity etc.) with another simultaneously ... join, be mixed, or combine")</p> <p>R.H. Webster's Unabridged Dictionary (1997) (defining "mix" as "1. to combine (substances, elements, things, etc.) into one mass, collection, or assemblage, generally with a thorough blending of the constituents" or "3. to combine, unite or join")</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
			<p>Random house unabridged dictionary (1993) (defining “mix” as “1. to combine (substances, elements, things, etc.) into one mass, collection, or assemblage, generally with a thorough blending of the constituents blending of the constituents” or “3. to combine, unite or join”)</p> <p>The American Heritage College Dictionary Third Edition (1993) (defining “mix” as “To combine or blend into one mass or mixture” or “To create or form by combining ingredients”)</p> <p>The American Heritage Desk Dictionary (2013) (defining “mix” as “To combine or blend into one mass or mixture” or “To combine or join”)</p> <p>The Merriam-Webster Dictionary (1997) (defining “mix” as “[T]o combine into one mass”)</p> <p>The New Shorter Oxford English Dictionary (1993) (defining “mix” as “Put together or combine (two or more substances or things) so that the constituents of each are diffused among those of the other or others”)</p> <p>Webster’s II New College Dictionary (2001) (defining “mix” as “To combine or blend into one mass or mixture, rendering the constituent parts indistinguishable”)</p> <p>U.S. Patent No. 6,529,236 to Watanabe (APL-MAXELL_00718597- APL-MAXELL_00718620)</p> <p>U.S. Patent No. 6,018,363 to Horii (APL-MAXELL_00718245- APL-MAXELL_00718277)</p> <p>EP 0 802 688 A2 to Inoue (APL-MAXELL_00713722- APL-MAXELL_00713746)</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
			<p>U.S. Patent No. 5,502,483 to Takase (APL-MAXELL_00718141-APL-MAXELL_00718151)</p> <p>U.S. Patent No. 5,444,482 to Misawa (APL-MAXELL_00718115-APL-MAXELL_00718126)</p> <p>U.S. Patent No. 6,335,760 to Sato (APL-MAXELL_00718465-APL-MAXELL_00718485)</p> <p>U.S. Patent No. 5,828,406 to Parulski</p> <p>Testimony of Dr. Alan Bovik (including declaration and deposition testimony). Dr. Bovik will explain the technology, the state of the art at the time the patent application was filed, the meaning of claim terms or phrases as they would be understood by those of ordinary skill in the art at the time of the invention, how those of ordinary skill in the art at the time of the invention would have understood statements made by the patentee during prosecution of the applications, and the level of ordinary skill in the relevant art. Dr. Bovik may also offer a declaration, if necessary, to respond to Plaintiff's contentions, any expert testimony on behalf of Plaintiff, or for the Court's benefit.</p>
7	"culling signal charges accumulated in the N number of vertically arranged pixel lines" /	<p><u>Plaintiff's Construction</u></p> <p>Plain and ordinary meaning</p> <p><u>Defendants' Construction</u>²</p>	<p><u>Plaintiff's Evidence</u></p> <p>'493 Patent at Abstract, 1:18-31, 2:44-53, 2:62-3:2, 4:30-65, 4:66-5:18, 5:34-6:7, 6:39-57, 7:31-65, 8:8-41, 8:51-9:2, 9:30-36, 9:58-10:12, 10:6-32, 11:59-12:14, 12:37-48, 13:16-22, 14:10-32, 14:52-55, 15:4-21, Figures 3, 5, 6</p>

² Apple objects to Maxell's refusal to identify what it contends to be the "plain and ordinary meaning" of this and other claim terms during the claim construction process, thereby frustrating the purpose and intent of Patent Rule disclosures and materially prejudicing Apple's participation in the claim construction process.

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
	<p>“culled from the N number of vertically arranged pixel lines”</p> <p>’493 Patent: claims 1, 5, 10</p>	<p>“culling” / “culled” means selecting pixels for output by skipping pixels at predetermined intervals / selected</p>	<p>Defendant Apple Inc.’s Invalidity Contentions Pursuant to Patent Local Rules 3-3 and 3-4 (and exhibits thereto)</p> <p>US 7,158,158</p> <p>US 2013/0084003</p> <p>JP H09-270959</p> <p>EP 0 822 724</p> <p>IPR2018-00236, Paper Nos. 1, 9, Ex. 1002.</p> <p>Authoritative Dictionary of IEEE Standards Terms (7th ed.; 2000), p. 827 (“picture element”)</p> <p>In addition, Maxell will present expert testimony from Dr. Vijay Madisetti in support of Maxell’s proposed construction and addressing arguments presented by Apple’s expert, if any. This testimony may include, at least, an explanation of the meaning of this term in the context of the subject matter disclosed in the asserted patents, a description of the state of the technology, and how a person of ordinary skill in the art would interpret the term at the time the application for the asserted patent was filed.</p> <p><u>Defendants’ Evidence</u></p> <p>’493 Patent at Abstract, 1:18–31; 2:1–25; 2:26–53; 2:62–3:2; 3:8–15; 4:30–65; 4:66–5:18; 5:34–6:7; 6:39–57; 7:40–8:7; 10:3–12; 10:18–58; Figures 2, 3, 4, 6, 8, 10</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
			<p>JP H11-187306</p> <p>JP H09-270959</p> <p>U.S. 4,434,435 to Fujimoto</p> <p>EP 0,840,503 to Kijima</p> <p>U.S. Patent No. 6,661,451 to Kijima</p> <p>U.S. Patent No. 4,054,915 to Sugihara</p> <p>U.S. Patent No. 4,620,134 to Peels</p> <p>U.S. Patent No. 6,002,203.</p> <p>U.S. Patent No. 4,541,010.</p> <p>U.S. Patent No. 6,700,607 to Misawa</p> <p>U.S. Patent 5,657,082 to Harada</p> <p>U.S. Patent No. 5,668,597 to Parulski</p> <p>U.S. Patent No. 5,828,406 to Parulski</p> <p>U.S. Patent No. 5,374,955 to Furuhashi</p> <p>U.S. Patent No. 6,720,996 to Suyama</p> <p>U.S. Patent No. 4,910,599 to Hashimoto</p> <p>U.S. Patent No. 5,264,939 to Chang</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
			<p>U.S. Patent No. 5,450,129 to Matoba</p> <p>U.S. Patent No. 5,986,698 to Nobuoka.</p> <p>U.S. Patent No. 6,122,007 to Ishibashi</p> <p>U.S. Patent No. 6,181,375 to Mitsui</p> <p>U.S. Patent No. 6,529,236 to Watanabe</p> <p>U.S. Patent No. 6,580,457 to Armstrong</p> <p>U.S. Patent App. Pub. No. 2001/0043276 to Ueno</p> <p>U.S. Patent App. Pub. No. 2002/0118291 to Ishigami</p> <p>U.S. 6,765,616 Prosecution History, Office Action dated November 26, 2013, and references cited therein</p> <p>U.S. 6,765,616 Prosecution History, Amendment and Remarks dated February 26, 2004</p> <p>U.S. 8,059,177 Prosecution History, Preliminary Amendment dated September 12, 2003</p> <p>U.S. 8,059,177 Prosecution History, Requirement for Restriction/Election dated March 13, 2008</p> <p>U.S. 8,059,177 Prosecution History, Response to Election/Restriction dated April 11, 2008</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
			<p>U.S. 8,059,177 Prosecution History, Office Action dated August 11, 2008, and references cited therein</p> <p>U.S. 8,059,177 Prosecution History, Amendment and Remarks dated November 10, 2008</p> <p>U.S. 8,059,177 Prosecution History, Office Action dated November 10, 2009, and references cited therein</p> <p>U.S. 8,059,177 Prosecution History, Amendment and Remarks dated May 10, 2010</p> <p>U.S. 8,339,493 Prosecution History, Office Action dated March 14, 2012, and references cited therein</p> <p>U.S. 8,339,493 Prosecution History, Amendments and Remarks dated July 16, 2012</p> <p>Cambridge Dictionary of American English Second Edition (2008) (defining “cull” as “[T]o collect parts or pieces of something to use for another purpose”)</p> <p>Cambridge Dictionary of American English (2006) (defining “cull” as “[T]o put together or form (something) by collecting parts or pieces from various places, or to collect (something) from various places”)</p> <p>Oxford American College Dictionary (2002) (defining “cull” as “[S]elect from a large quantity”)</p> <p>Oxford English Reference Dictionary (1996) (defining “cull” as “select, choose, or gather from a large quantity or amount”)</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
			<p>Random house unabridged dictionary (1993) (defining “cull” as “To choose, select or pick”)</p> <p>The American Heritage College Dictionary Third Edition (1993) (defining “cull” as “1. To pick out from others” or “3. To remove rejected members or parts from”)</p> <p>The American Heritage Desk Dictionary (2013) (defining “cull” as “To pick out from others”)</p> <p>The Merriam-Webster Dictionary (1997) (defining “cull” as “1. to pick out from a group”)</p> <p>The New Shorter Oxford English Dictionary (1993) (defining “cull” as “Choose from a fairly large number”)</p> <p>Webster’s II New College Dictionary (2001) (defining “cull” as “To pick out from others”)</p> <p>U.S. Patent No. 6,529,236 to Watanabe (APL-MAXELL_00718597-APL-MAXELL_00718620)</p> <p>U.S. Patent No. 6,018,363 to Horii (APL-MAXELL_00718245- APL-MAXELL_00718277)</p> <p>EP 0 802 688 A2 to Inoue (APL-MAXELL_00713722- APL-MAXELL_00713746)</p> <p>U.S. Patent No. 5,502,483 to Takase (APL-MAXELL_00718141-APL-MAXELL_00718151)</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
			<p>U.S. Patent No. 5,444,482 to Misawa (APL-MAXELL_00718115-APL-MAXELL_00718126)</p> <p>U.S. Patent No. 6,335,760 to Sato (APL-MAXELL_00718465-APL-MAXELL_00718485)</p> <p>U.S. Patent No. 5,828,406 to Parulski</p> <p>Testimony of Dr. Alan Bovik (including declaration and deposition testimony). Dr. Bovik will explain the technology, the state of the art at the time the patent application was filed, the meaning of claim terms or phrases as they would be understood by those of ordinary skill in the art at the time of the invention, how those of ordinary skill in the art at the time of the invention would have understood statements made by the patentee during prosecution of the applications, and the level of ordinary skill in the relevant art. Dr. Bovik may also offer a declaration, if necessary, to respond to Plaintiff's contentions, any expert testimony on behalf of Plaintiff, or for the Court's benefit.</p>
8	<p>"capacity detector for detecting a remaining capacity of said battery"</p> <p>'794 Patent: Claims 1, 9</p>	<p><u>Plaintiff's Construction</u></p> <p>Plain and ordinary meaning</p> <p><u>Defendants' Construction</u></p> <p>Function: detecting a remaining capacity of a battery</p> <p>Structure: Capacity Detector 107 (as configured in Figs. 1, 6, 10, or 11)</p>	<p><u>Plaintiff's Evidence</u></p> <p>'794: 3:34-35, 4:22-35, 4:46-49, 6:66-7:1, 7:13-16; Figs. 1, 4, 6, 10, 11.</p> <p>Academic Press Dictionary of Science and Technology (1992) at 353 ("capacity Electricity. 1. The current-output capability of a cell or battery over a period of time, usually expressed in ampere-hours.")</p> <p>Merriam-Webster's Collegiate Dictionary, Tenth Ed. (1999) at 988 ("Remain 1 a: to be a part not destroyed, taken, or used up"); id. ("remainder 2 b (1): the number left after a subtraction").</p> <p>IPR2018-00241, Paper Nos. 1, 12, Ex. 1002.</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
		performing the steps shown in Fig. 4.; or equivalents thereof	<p>Defendant Apple Inc.'s Invalidity Contentions Pursuant to Patent Local Rules 3-3 and 3-4 (and exhibits thereto).</p> <p>In addition, Maxell will present expert testimony from Dr. Michael Brogioli in support of Maxell's proposed construction and addressing arguments presented by Apple's expert, if any. This testimony may include, at least, an explanation of the meaning of this term in the context of the subject matter disclosed in the asserted patents, a description of the state of the technology, and how a person of ordinary skill in the art would interpret the term at the time the application for the asserted patent was filed.</p> <p><u>Defendants' Evidence</u></p> <p>794 patent at 1:55-67; 2:55-57; 3:25-40; 4:21-23; 4:24-34; Figs. 1, 4, 6, 10, 11.</p> <p>U.S. Patent No. 6,094,033 to Ding</p> <p>U.S. Patent No. 4,849,700 to Morioka</p> <p>Testimony of Dr. Daniel Menasce (including declaration and deposition testimony). Dr. Menasce will explain the technology, the state of the art at the time the patent application was filed, the meaning of claim terms or phrases as they would be understood by those of ordinary skill in the art at the time of the invention in the context of the patent specification and other intrinsic/extrinsic evidence, how those of ordinary skill in the art at the time of the invention would have understood statements made by the patentee during prosecution of the applications, and the level of ordinary skill in the relevant art. Dr. Menasce may also offer a declaration, if</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
			necessary, to respond to Plaintiff's contentions, any expert testimony on behalf of Plaintiff, or for the Court's benefit.
9	<p>"ringing sound generator"</p> <p>'306 Patent: Claims 2, 12, 13</p>	<p><u>Plaintiff's Construction</u></p> <p>Plain and ordinary meaning</p> <p><u>Defendants' Construction</u></p> <p>Function: to generate a ringing sound</p> <p>Structure: Element 1519 in Figure 15 comprising 1, 3a-3c, and 4a-4c in Figure 1; or equivalents thereof</p>	<p><u>Plaintiff's Evidence</u></p> <p>'306: Abstract, 1:24-37, 2:4-36, 4:13-5:18, 6:34-8:61, 9:13-32, 16:44-17:25, Figs. 1, 2, 3, 4, 15, 18</p> <p>In addition, Maxell will present expert testimony from Dr. Robert Maher in support of Maxell's proposed construction and addressing arguments presented by Apple's expert, if any. This testimony may include, at least, an explanation of the meaning of this term in the context of the subject matter disclosed in the asserted patents, a description of the state of the technology, and how a person of ordinary skill in the art would interpret the term at the time the application for the asserted patent was filed.</p> <p><u>Defendant's Evidence</u></p> <p>'306 Patent at Abstract, 1:5-53, 2:1-61, 3:54-56, 4:13-5:18, 6:6-10:64, 11:8-12:51, 12:52-15:35, 15:36-43, 16:44-17:25, Figs. 1-15 and 18.</p> <p>'306 Patent Prosecution history, Applicant's Remarks/Arguments (July 25, 2003)</p> <p>Merriam-Webster's Collegiate Dictionary (1998) (defining "ring" as "1. to sound resonantly or sonorously, 2. to be filled with a reverberating sound, 5. to have a sound or character expressive of some quality," and 1. to cause to sound esp. by striking")</p> <p>Oxford American College Dictionary (2002) (defining "ring" as "To make a clear resonant or vibrating sound")</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
			<p>Oxford English Reference Dictionary (1996) (defining “ring” as “give a clear resonant or vibrating sound of or as of a bell ...”)</p> <p>R.H. Webster’s Unabridged Dictionary (1997) (defining “ring” as “[T]o give forth a clear resonant sound, as a bell when struck”)</p> <p>Random House Unabridged Dictionary (1993) (defining “ring” as “[To] give forth a clear resonant sound, as a bell when struck”)</p> <p>The American Heritage College Dictionary Third Edition (1993) (defining “ring” as “To give forth a clear resonant sound” or “To cause something to ring”)</p> <p>The American Heritage Desk Dictionary (2013) (defining “ring” as “To give forth a clear resonant sound” or “To cause something to ring”)</p> <p>The Merriam-Webster Dictionary (1997) (defining “ring” as “2. the clear resonant sound of vibrating metal ... 4. a sound or character expressive of a particular quality”)</p> <p>The New Shorter Oxford English Dictionary (1993) (defining “ring” as “[to] give out a clear resonant or vibrating sound as of a hard metal object being struck”)</p> <p>Webster’s II New College Dictionary (2001) (defining “ring” as “To give forth a clear resonant sound”)</p> <p>Random House Unabridged Dictionary (1993) (defining “generator” as “[A] person or things that generates”)</p> <p>R.H. Webster’s Unabridged Dictionary (1997) (defining “generator” as “A person or things that generates”)</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
			<p>Testimony of Dr. Benjamin Bederson (including declaration and deposition testimony). Dr. Bederson will explain the technology, the state of the art at the time the patent application was filed, the meaning of claim terms or phrases as they would be understood by those of ordinary skill in the art at the time of the invention in the context of the patent specification and other intrinsic/extrinsic evidence, how those of ordinary skill in the art at the time of the invention would have understood statements made by the patentee during prosecution of the applications, and the level of ordinary skill in the relevant art. Dr. Bederson may also offer a declaration, if necessary, to respond to Plaintiff's contentions, any expert testimony on behalf of Plaintiff, or for the Court's benefit.</p>
10	<p>"communication apparatus"</p> <p>'991 Patent: Claims 1, 8</p>	<p><u>Plaintiff's Construction</u> Plain and ordinary meaning</p> <p><u>Defendants' Construction</u> "videophone function-added TV receiver"</p>	<p><u>Plaintiff's Evidence</u></p> <p>'991: Abstract, 1:52-2:3:28, 6:40-43, 12:34-13:30, 32:31-36; U.S. Patent No. 8,363,087 at 31:41-32:38; U.S. Patent No. 9,124,758 at 31:45-32:24, File History of U.S. Patent No. 9,124,758 at original claims filed December 21, 2012 and Preliminary Amendment filed January 31, 2013; U.S. Patent No. 9,432,618 at 32:28-58; U.S. Patent No.9,723,268 at 32:32-33:18.</p> <p>Hargrave's Communications Dictionary (2001) p. 568 ("videophone" and "video on demand")</p> <p>Dictionary of Communications and Technology (3d Ed.) (1998) p. 576 ("videophone")</p> <p>Chambers Dictionary of Science And Technology (1999) p. 1238 ("videophone")</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
			<p>The Dictionary of Multimedia Terms & Acronyms (1997) p. 224 (“videophone”)</p> <p>McGraw-Hill Electronics Dictionary (6th Ed.) (1997) p. 505-506 (“videophone”)</p> <p>Microsoft Computer Dictionary (5th Ed) (2002) pp. 485, 552 (“smartphone” “videophone”)</p> <p>Newton’s Telecom Dictionary (2002) p. 677 (“smart phone”)</p> <p>Tech Terms (2006) p. 228 (“smart phone”)</p> <p>Wiley Electrical and Electronics Engineering Dictionary (2004) p. 719 (“smartphone”)</p> <p>https://www.techradar.com/reviews/phones/mobile-phones/apple-iphone-3g-421417/review</p> <p>https://www.cnet.com/reviews/apple-iphone-3g-review/</p> <p>https://www.cnet.com/reviews/apple-iphone-review/</p> <p>https://www.wired.com/2003/02/smile-for-the-telephone/</p> <p>https://www.wired.com/2006/10/samsung-smartph/</p> <p>https://www.wired.com/2007/01/iphone-takes-apple-on-new-path/</p> <p>https://www.ifixit.com/Teardown/iPhone+3G+Teardown/600</p> <p>https://www.ifixit.com/Teardown/iPhone+1st+Generation+Teardown/599</p> <p>Defendant Apple Inc.’s Invalidity Contentions Pursuant to Patent Local Rules 3-3 and 3-4 (and exhibits thereto).</p> <p><u>Defendant’s Evidence</u></p> <p>’991 Patent generally, and at Abstract, 1:29-35, 1:37-2:3, 2:5-48, 2:49-55, 2:56-3:28, 3:29-4:7, 4:8-52, 4:53-5:18, 5:19-25, 5:26-57, 5:58-6:6, 6:7-24, 6:25-39, 6:47-50, 6:51-54, 6:55-57, 6:58-59, 6:60-63, 6:64-67, 7:1-5, 7:6-8, 7:9-11, 7:12-14, 7:15-16, 7:17-19, 7:20-22, 7:24-26, 7:32-8:22,</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
			<p>8:23-9:24, 9:25-10:12, 10:13-11:21, 11:22-14:34, 14:35-15:28, 15:29-16:45, 16:46-19:64, 19:65-21:25, 21:26-23:31, 23:32-63, 23:64-26:19, 26:20-52, 26:53-29:4, 29:5-30:24, 30:25-67, 31:1-28, 31:29-42, 31:43-61, 31:62-32:21, 32:22-30, Fig. 1, Fig. 2, Fig. 3, Fig. 4, Fig. 5, Fig. 6, Fig. 7A, Fig. 7B, Fig. 8, Fig. 9, Fig. 10, Fig. 11, Fig. 12, Fig. 13, Fig. 14.</p> <p>'991 Patent Prosecution history, Applicant's Amendment after Notice of Allowance (July 24, 2018)</p> <p>Testimony of Dr. Benjamin Bederson (including declaration and deposition testimony). Dr. Bederson will explain the technology, the state of the art at the time the patent application was filed, the meaning of claim terms or phrases as they would be understood by those of ordinary skill in the art at the time of the invention in the context of the patent specification and other intrinsic/extrinsic evidence, how those of ordinary skill in the art at the time of the invention would have understood statements made by the patentee during prosecution of the applications, and the level of ordinary skill in the relevant art. Dr. Bederson may also offer a declaration, if necessary, to respond to Plaintiff's contentions, any expert testimony on behalf of Plaintiff, or for the Court's benefit.</p>
11	<p>"an input unit for receiving an input entered by a user"</p> <p>'438: Claim 1</p>	<p><u>Plaintiff's Construction</u></p> <p>Plain and ordinary meaning.</p> <p><u>Defendants' Construction</u></p> <p>Function: to receive input entered by a user</p> <p>Structure: a keyboard; or equivalents thereof</p>	<p><u>Plaintiff's Evidence</u></p> <p>'438: 3:59-4:3, 10:32-33, Figs. 2, 12</p> <p>IBM Dictionary of Computing (1994) at 341 (input device "synonym for input unit"), 343 (input unit "a device in a data processing system by means of which data can be entered into the system.")</p> <p>Defendant Apple Inc.'s Invalidity Contentions Pursuant to Patent Local Rules 3-3 and 3-4 (and exhibits thereto).</p> <p>In addition, Maxell will present expert testimony from Dr. Timothy Williams in support of Maxell's proposed construction and addressing</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
			<p>arguments presented by Apple’s expert, if any. This testimony may include, at least, an explanation of the meaning of this term in the context of the subject matter disclosed in the asserted patents, a description of the state of the technology, and how a person of ordinary skill in the art would interpret the term at the time the application for the asserted patent was filed.</p> <p><u>Defendants’ Evidence</u></p> <p>’438 patent at 3:39-4:14, 7:53-7:66, 8:52-9:1, Figs. 2, 10-13.</p> <p><i>Maxell LTD. v. Huawei Device USA Inc. et al.</i>, Case No. 5:16-cv-00178-RWS, Dkt. No. 175, Claim Construction Memorandum and Order (January 31, 2018)</p> <p>Testimony of Dr. Daniel Menasce (including declaration and deposition testimony). Dr. Menasce will explain the technology, the state of the art at the time the patent application was filed, the meaning of claim terms or phrases as they would be understood by those of ordinary skill in the art at the time of the invention in the context of the patent specification and other intrinsic/extrinsic evidence, how those of ordinary skill in the art at the time of the invention would have understood statements made by the patentee during prosecution of the applications, and the level of ordinary skill in the relevant art. Dr. Menasce may also offer a declaration, if necessary, to respond to Plaintiff’s contentions, any expert testimony on behalf of Plaintiff, or for the Court’s benefit.</p>
12	“display apparatus”	<u>Plaintiff’s Construction</u>	<p><u>Plaintiff’s Evidence</u></p> <p>’438: 1:54-65, 2:5-10, 3:7-14, 4:27-36, 10:60-65, Figs. 1, 2, 3,</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
	'438: Claims 1-7	<p>a display device comprising a first short-distance communication apparatus for carrying out a short-distance communication with an information-processing terminal and a second communication apparatus for carrying out a communication with the information-processing terminal through a network</p> <p><u>Defendants' Construction</u></p> <p>“an electronic notice board”</p>	<p>IEEE Standards Dictionary (2000) (display device)</p> <p>display device (1) In computer graphics, an output device on which display images can be represented. For example, cathode ray tube display device, plotter, hard copy unit. <i>See also:</i> graphical display device. (C) 610.6-1991w</p> <p>(2) An output device that gives a visual representation of data. <i>Note:</i> The representation is usually temporary, however arrangements may be made for producing a hard copy of the representation. <i>Synonyms:</i> display screen; display unit; display monitor; display station. <i>See also:</i> monitor; display surface. (C) 610.10-1994w</p> <p>(3) The hardware used to provide the display to users. An example is a video display unit. <i>See also:</i> display. (PE/NP) 1289-1998</p> <p>In addition, Maxell will present expert testimony from Dr. Timothy Williams in support of Maxell's proposed construction and addressing arguments presented by Apple's expert, if any. This testimony may include, at least, an explanation of the meaning of this term in the context of the subject matter disclosed in the asserted patents, a description of the state of the technology, and how a person of ordinary skill in the art would interpret the term at the time the application for the asserted patent was filed.</p> <p><u>Defendants' Evidence</u></p> <p>'438 Patent at Abstract, 1:6-50; 2:30-31, 2:38-39, 2:60-3:166; 4:27-6:6-; 6:48-58; 7:47-56, 8:21-26, 9:22-27, 9:33-10:8; Figs. 1, 3, 10.</p> <p>'438 Patent Prosecution History, Original Application and Claims filed on December 30, 2003.</p> <p>'438 Patent Prosecution History, Response and Amendment Filed on March 7, 2006.</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
			<p>Merriam-Webster's Collegiate Dictionary (1998) (defining "notice board" as "a board bearing a notice or on which notices may be posted")</p> <p>Testimony of Dr. Daniel Menasce (including declaration and deposition testimony). Dr. Menasce will explain the technology, the state of the art at the time the patent application was filed, the meaning of claim terms or phrases as they would be understood by those of ordinary skill in the art at the time of the invention in the context of the patent specification and other intrinsic/extrinsic evidence, how those of ordinary skill in the art at the time of the invention would have understood statements made by the patentee during prosecution of the applications, and the level of ordinary skill in the relevant art. Dr. Menasce may also offer a declaration, if necessary, to respond to Plaintiff's contentions, any expert testimony on behalf of Plaintiff, or for the Court's benefit.</p>
13	<p>"adding a comment to contributed data"</p> <p>'438: claim 2</p>	<p><u>Plaintiff's Construction</u></p> <p>Plain and ordinary meaning.</p> <p><u>Defendants' Construction</u></p> <p>"written content responsive to the contributed data"</p>	<p><u>Plaintiff's Evidence</u></p> <p>'438: 7:52-8:51, Figs. 12 and 13</p> <p><u>Defendants' Evidence</u></p> <p>'438 Patent at 2:54-55; 3:1-6, 5:34-44, 8:40-9:29, 9:60-64; Figs. 10, 11, 13.</p> <p>The American Heritage College Dictionary Third Edition (1993) (defining "comment" as "1.a. A written note intended as an explanation, an illustration, or a criticism of a passage in a book or other writing; an annotation" or "2.a. A statement of fact or opinion, esp. one that expresses a personal reaction or attitude")</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
			<p>Webster's II New College Dictionary (2001) (defining "comment" as "1. A written note that explains, illustrates, or criticizes a passage in a book or other writing ..." or "2.a. A brief expression of fact or personal opinion. b. An implied conclusion or judgment ...")</p> <p>Merriam-Webster's Collegiate Dictionary (1998) (defining "comment" as "a note explaining, illustrating, or criticizing the meaning of a writing" or "an observation or remark expressing an opinion or attitude")</p> <p>Testimony of Dr. Daniel Menasce (including declaration and deposition testimony). Dr. Menasce will explain the technology, the state of the art at the time the patent application was filed, the meaning of claim terms or phrases as they would be understood by those of ordinary skill in the art at the time of the invention in the context of the patent specification and other intrinsic/extrinsic evidence, how those of ordinary skill in the art at the time of the invention would have understood statements made by the patentee during prosecution of the applications, and the level of ordinary skill in the relevant art. Dr. Menasce may also offer a declaration, if necessary, to respond to Plaintiff's contentions, any expert testimony on behalf of Plaintiff, or for the Court's benefit.</p>
14	<p>"means for selecting an object displayed on said display apparatus"</p> <p>'438 Patent: Claim 3</p>	<p><u>Plaintiff's Construction</u></p> <p>Function: selecting an object displayed on said display apparatus</p> <p>Structure: Input/output unit 103 and associated software that allows for the claimed selection function.</p>	<p><u>Plaintiff's Evidence</u></p> <p>'438: 8:57-9:13, 7:52-8:6, Fig. 2</p> <p>In addition, Maxell will present expert testimony from Dr. Timothy Williams in support of Maxell's proposed construction and addressing arguments presented by Apple's expert, if any. This testimony may include, at least, an explanation of the meaning of this term in the context of the subject matter disclosed in the asserted patents, a description of the state of the technology, and how a person of ordinary skill in the art would interpret the term at the time the application for the asserted patent</p>

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
		<p><u>Defendants' Construction</u></p> <p>Function: to select an object displayed on said display apparatus</p> <p>Structure: input/output unit 103, including a liquid crystal display device and a keyboard, and associated software; or equivalents thereof</p>	<p>was filed.</p> <p><u>Defendants' Evidence</u></p> <p>'438 patent at 3:39-4:14, 7:53-7:66, 8:52-9:1, Figs. 2, 10-13.</p> <p><i>Maxell LTD. v. Huawei Device USA Inc. et al.</i>, Case No. 5:16-cv-00178-RWS, Dkt. No. 175, Claim Construction Memorandum and Order (January 31, 2018)</p> <p>Testimony of Dr. Daniel Menasce (including declaration and deposition testimony). Dr. Menasce will explain the technology, the state of the art at the time the patent application was filed, the meaning of claim terms or phrases as they would be understood by those of ordinary skill in the art at the time of the invention in the context of the patent specification and other intrinsic/extrinsic evidence, how those of ordinary skill in the art at the time of the invention would have understood statements made by the patentee during prosecution of the applications, and the level of ordinary skill in the relevant art. Dr. Menasce may also offer a declaration, if necessary, to respond to Plaintiff's contentions, any expert testimony on behalf of Plaintiff, or for the Court's benefit.</p>

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

The parties respectfully request 4 hours as the total length of time for the Claim

Construction Hearing.

VI. WHETHER ANY PARTY PROPOSES TO CALL ONE OR MORE WITNESSES, INCLUDING EXPERTS, AT THE CLAIM CONSTRUCTION HEARING, THE IDENTITY OF EACH SUCH WITNESS, AND FOR EACH EXPERT, A SUMMARY OF EACH OPINION TO BE OFFERED IN SUFFICIENT DETAIL TO PERMIT A MEANINGFUL DEPOSITION OF THAT EXPERT

At this time, neither Plaintiff nor Defendant expects to call any witnesses.

VII. A LIST OF ANY OTHER ISSUES WHICH MIGHT APPROPRIATELY BE TAKEN UP AT A PREHEARING CONFERENCE PRIOR TO THE CLAIM CONSTRUCTION HEARING, AND PROPOSED DATES, IF NOT PREVIOUSLY SET, FOR ANY SUCH PREHEARING CONFERENCE

Plaintiff: None from Plaintiff at this time. Maxell is, however, compelled to state its position with respect to certain claim terms that need no construction in response to Apple's objection below. As this Court is well aware, not all claim terms (even when the parties disagree) need a construction other than the term's well understood plain and ordinary meaning. Consistent with this premise, Maxell believe that for a number of the disputed terms no construction is necessary and these terms should be given their plain and ordinary meaning as is consistent with the practice of the Federal Circuit and this Court. *See Aventis Pharms., Inc. v. Amino Chems. Ltd.*, 715 F.3d 1363, 1373 (Fed. Cir. 2013); *see also Maxell Ltd. v. Huawei Device USA Inc. et al.*, 297 F. Supp. 3d 668 (E.D. Tex. 2018). As evidenced by the numerous agreed upon terms in § III above, Maxell worked in good faith with Apple throughout the claim construction process to eliminate disputes and to reach compromise. However, just because disputes still exist does not

necessitate that the parties must provide a proposed construction – at some point the terms simply mean what they say.

Defendant: Apple Inc. respectfully requests that the Court resolve Apple’s Motion to Transfer (Dkt. Nos. 57, 69) and Motion to Stay (Dkt. No. 97) prior to conducting the Claim Construction Hearing. The Court held a hearing on Apple’s Motion to Transfer on September 17, 2019, and the Court has yet to scheduling a hearing on Apple’s Motion to Stay.

As noted above, Apple objects to Maxell’s refusal to identify what it contends to be the “plain and ordinary meaning” of Disputed Terms 7-11 and 13 during the claim construction process, thereby frustrating the purpose and intent of Patent Rule disclosures and materially prejudicing Apple’s participation in the claim construction process. *See O2 Micro Int’l Ltd. v. Beyond Innovation Tech. Co.*, 521 F.3d 1351, 1361 (Fed. Cir. 2008) (“‘plain and ordinary meaning’ may be inadequate when a term has more than one ‘ordinary’ meaning or when reliance on a term’s ‘ordinary’ meaning does not resolve the parties’ dispute”). There are apparent disputes between the parties regarding the scope of these terms. To the extent a term should be construed according to its “plain and ordinary meaning,” Maxell and its experts should be able to explain that meaning during the claim construction disclosure process. Maxell’s refusal to disclose its interpretation of these terms prejudices Apple by depriving Apple a full opportunity to identify evidence that would be relevant towards resolving the parties’ disputes. To the extent Maxell attempts to define Disputed Terms 7-11 and 13 later in this case (*e.g.*, by having its experts opine on the scope of each term’s “plain and ordinary meaning”), Apple reserves the right to move to strike any such belated claim construction argument.

Apple further objects to Maxell’s citations to the entirety of Apple’s invalidity contentions for disputed terms 5-8 and 10-11 in Section IV. Such citations do not provide Apple

sufficient notice as to what Maxell intends to rely on as extrinsic evidence for its claim construction positions.

Dated: October 16, 2019

/s/ Jamie B. Beaber

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CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served this 16th day of October, 2019, with a copy of this document via the Court's CM/ECF system.

/s/ Jamie B. Beaber

Jamie B. Beaber