

1 Jamie B. Beaber (*Pro Hac Vice*)
2 *jbeaber@mayerbrown.com*
3 Kfir B. Levy (State Bar No. 235372)
4 *klevy@mayerbrown.com*
5 James A. Fussell, III (*Pro Hac Vice*)
6 *jfussell@mayerbrown.com*
7 Tiffany A. Miller (*Pro Hac Vice*)
8 *tmiller@mayerbrown.com*
9 William J. Barrow (*Pro Hac Vice*)
10 *wbarrow@mayerbrown.com*

11 **MAYER BROWN LLP**
12 1999 K Street NW
13 Washington, DC 20006
14 Phone: 202.263.3000

15 Robert G. Pluta (*Pro Hac Vice*)
16 *rpluta@mayerbrown.com*

17 **MAYER BROWN LLP**
18 71 South Wacker Drive
19 Chicago, IL 60606
20 Phone: 312.701.8641

21 Patricia L. Peden State Bar No. 206440
22 *Patricia.peden@leclairryan.com*

23 **LECLAIRRYAN LLP**
24 44 Montgomery Street
25 Suite 3200
26 San Francisco, CA 94104
27 Phone: 415.913.4932

28 Attorneys for Plaintiff MAXELL, LTD.

Michael J. Newton State Bar No. 156225
mike.newton@alston.com

ALSTON & BIRD LLP
2828 North Harwood Street, Suite 1800
Dallas, TX 75201
Phone: 214.922.3400

Attorney for Defendant ASUSTeK Computer Inc.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

MAXELL, LTD.,

Plaintiff,

v.

ASUSTeK Computer Inc. and ASUS
Computer International

Defendants.

Case No. 3:18-cv-01788-VC_

**JOINT CLAIM CONSTRUCTION
AND PREHEARING STATEMENT
UNDER PATENT L.R. 4-3**

Case No. 3:18-cv-01788- VC

JOINT CLAIM CONSTRUCTION & PREHEARING STATEMENT

Plaintiff Maxell, Ltd. (“Maxell” or “Plaintiff”) and Defendants ASUSTeK Computer Inc. and ASUS Computer International (“ASUS” or “Defendant”) submit the following Joint Claim Construction and Prehearing Statement for the asserted claims of U.S. Patent Nos. 7,403,226 (the ’226 Patent), 9,544,517 (the ’517 Patent), 6,430,498 (the ’498 Patent), 6,243,340 (the ’340 Patent), 6,973,334 (the ’334 Patent), 7,551,209 (the ’209 Patent), and 9,451,229 (the ’229 Patent).

I. CONSTRUCTION OF CLAIM TERMS UPON WHICH THE PARTIES AGREE (4-3(A))

The parties have met and conferred, and have reached agreement on the following terms:

Claim Term	Agreed Construction
“residual storage of a (the) battery” (’340 Patent, Claim 1)	“remaining battery charge”
“when the residual storage of a battery decreases” (’340 Patent, Claim 1)	“when the remaining battery charge decreases”
“detecting a decrease in a residual storage of a battery” (’340 Patent, Claim 1)	“detecting a decrease in a remaining battery charge”
“managing information (intermediate information)”/ “managing information” (’340 Patent, Claim 1)	Plain and ordinary meaning.

Preambles: “A cellular telephone used in a CDMA system” and “A method of controlling a cellular telephone used in a CDMA system, said cellular telephone including a transmitter having a variable amplitude amplifier and a power amplifier” (’334 Patent, Claims 1 and 4)	Preambles are limiting
“detecting an achromatic portion” (’209 Patent, Claims 1, 3, 5, and 6)	“detecting a white portion”

II. EACH PARTY’S PROPOSED CONSTRUCTION OF DISPUTED TERMS TOGETHER WITH IDENTIFICATION OF SUPPORTING INTRINSIC AND EXTRINSIC EVIDENCE (4-3(B))

Exhibit A-1 hereto sets forth Maxell’s constructions and identified support including intrinsic and extrinsic evidence regarding disputed claim terms for the asserted patents.

Exhibit B-1 hereto sets forth ASUS’s constructions and identified support including intrinsic and extrinsic evidence regarding disputed claim terms for the asserted patents.

III. THE MOST SIGNIFICANT TERMS FOR CONSTRUCTION (4-3(C))

The parties have collectively identified the following terms as the most significant to the resolution of this case:

No.	Claim Term
1	“MPEG Method” (’229 Patent, Claims 1, 5, and 9)
2	“said walking navigation information” (’498 Patent, Claims 1, 5, and 10)
3	“white balance controlling means” (’209 Patent, Claim 1)

4	“recording means for recording data on said information recording medium” (’340 Patent, Claim 1)
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In addition, the parties individually identify each of the below terms as most significant:

No.	Maxell Terms
5	“wherein the zoom operation unit is interlocked with an optical zoom mechanism” (’517 patent, Claim 3)
6	“a function defining a relation between bias data and gain data stored in said memory” (’334 patent, Claims 1 and 4)
7	“variable amplitude amplifier” (’334 Patent, Claims 1 and 4)
ASUS Terms	
8	“increases gradually to the maximum value (’334 Patent, Claims 1 and 4)
9	“a device for getting location information denoting a present place of said portable terminal” (’498 Patent, Claims 1, 5, and 10)
10	“object distance detecting means” (’209 Patent, Claims 1, 3, 5, and 6)

Of the foregoing ten terms, the parties identify the following terms as claim dispositive, in view of ASUS’s contention that such terms are indefinite:

- “said walking navigation information” (’498 Patent, Claims 1, 5, and 10)
- “white balance controlling means” (’209 Patent, Claim 1)
- “wherein the zoom operation unit is interlocked with an optical zoom mechanism” (’517 patent, Claim 3)
- “increases gradually to the maximum value (’334 Patent, Claims 1 and 4)
- “a device for getting location information denoting a present place of said portable terminal” (’498 Patent, Claims 1, 5, and 10)
- “object distance detecting means” (’209 Patent, Claims 1, 3, 5, and 6)

1 ASUS also contends that the following terms are likely to be claim
2 dispositive with respect to the issue of infringement:
3

- 4 • “MPEG method” (‘229 Patent, Claims 1, 5, and 9)
- 5 • “recording means for recording data on said information recording medium”
6 (‘340 Patent, Claim 1)

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8 **IV. ANTICIPATED LENGTH OF TIME FOR CLAIM CONSTRUCTION
HEARING (4-4(D))**

9 The parties anticipate that three hours will be sufficient for a claim
10 construction hearing on all of the most significant terms for construction.
11

12 **V. IDENTIFICATION OF WITNESSES FOR CLAIM CONSTRUCTION
13 HEARING (4-3(E))**

14 Maxell expects to proffer testimony either live or via declaration from the
15 following experts: Dr. Vijay Madiseti, Dr. Michael Braasch, Dr. Brana Vojcic, Dr.
16 Shukri Souiri, and Dr. Joshua Phinney. Each expert is expected to provide testimony
17 about how the disputed claim terms would have been understood by a person of
18 ordinary skill in the art at the time of the claimed inventions. A summary of each
19 expert’s anticipated testimony is appended hereto at Exhibits A-2 – A-6.
20
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22 Additionally, Maxell may call any of these experts to testify live to rebut any such
23 testimony proffered by ASUS.
24

25 ASUS expects to proffer testimony either live or via declaration from the
26 following experts: Dr. Barmak Mansoorian, Mr. Scott Andrews, Dr. Zhi Ding, Dr.
27 Dan Schonfeld, and Dr. Masud Mansuripur. A summary of each expert’s anticipated
28

1 testimony is appended hereto at Exhibits B-2 – B-6. Additionally, ASUS may call
2 any of these experts to testify live to rebut any such testimony proffered by Maxell.
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6 Dated: August 27, 2018 Respectfully submitted,

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8 Bv: /s/ Jamie B. Beaber

9 Jamie B. Beaber (*Pro Hac Vice*)
10 *jbeaber@mayerbrown.com*
Kfir B. Levy (State Bar No. 235372)
11 *klevy@mayerbrown.com*
James A. Fussell, III (*Pro Hac Vice*)
12 *jfussell@mayerbrown.com*
Tiffany A. Miller (*Pro Hac Vice*)
13 *tmiller@mayerbrown.com*
William J. Barrow (*Pro Hac Vice*)
14 *wbarrow@mayerbrown.com*
MAYER BROWN LLP
15 1999 K Street NW
Washington, DC 20006
Phone: 202.263.3000

16 Robert G. Pluta (*Pro Hac Vice*)
17 *rpluta@mayerbrown.com*
MAYER BROWN LLP
18 71 South Wacker Drive
Chicago, IL 60606
Phone: 312.701.8641

19 Patricia L. Peden State Bar No. 206440
20 *Patricia.peden@leclairryan.com*
LECLAIRRYAN LLP
21 44 Montgomery Street
Suite 3200
22 San Francisco, CA 94104
Phone: 415.913.4932

23 Attorneys for Plaintiff
24 MAXELL, LTD.
25
26
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1 Dated: August 27, 2018

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3 /s/ Michael J. Newton
4 Bv: Michael J. Newton (CA State Bar No. 156225)
5 Email: mike.newton@alston.com
6 Derek S. Neilson (*pro hac vice*)
7 Email: derek.neilson@alston.com
8 Brady R. Cox (*pro hac vice*)
9 Email: brady.cox@alston.com
10 Sang (Michael) Lee (*pro hac vice*)
11 Email: michael.lee@alston.com
12 Fannyben D. Patel (*pro hac vice*)
13 Email: fanny.patel@alston.com
14 ALSTON & BIRD LLP
15 2828 North Harwood Street, Suite 1800
16 Dallas, TX 75201
17 Telephone: (214) 922-3400
18 Facsimile: (214) 922-3899
19 Marsha E. Diedrich (CA Bar. No. 93709)
20 Email: marsha.diedrich@alston.com
21 H. James Abe (CA Bar. No. 265534)
22 Email: james.abe@alston.com
23 ALSTON & BIRD LLP
24 333 South Hope Street, 16th Floor
25 Los Angeles, CA 90071
26 Telephone: (213) 576-1000
27 Facsimile: (213) 576-1100
28 *Attorney for Defendants ASUSTeK Computer*
Inc. and ASUS Computer International

1 **ATTESTATION OF CONCURRENCE IN FILING**

2 In accordance with Civil Local Rule 5-1, I attest the concurrence in the filing
3 of this document has been obtained from Michael J. Newton.

4 /s/ Patricia L. Peden

5 Patricia L. Peden
6
7

8 **CERTIFICATE OF SERVICE**

9 I hereby certify that all counsel of record who are deemed to have consented
10 to electronic service are being served this 27th day of August, 2018 with a copy of
11 this document via electronic mail.
12

13 Dated: August 27, 2018

By: /s/ Victoria Balestrieri

14 Victoria Balestrieri
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