

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

EYESMATCH LTD. AND MEMOMI LABS
INC.,

Plaintiffs,

v.

FACEBOOK, INC., INSTAGRAM, LLC, AND
WHATSAPP LLC,

Defendants.

C.A. No. 21-111-RGA-JLH

JOINT CLAIM CONSTRUCTION CHART

Pursuant to Paragraph 7 of the Scheduling Order (D.I. 23), Plaintiffs EyesMatch Ltd. and Memomi Labs Inc., and Defendants Facebook, Inc., Instagram, LLC, and WhatsApp LLC (collectively, the “Parties”) hereby respectfully submit a Joint Claim Construction Chart identifying for the Court the claim terms of U.S. Patent No. 7,948,481 (the “481 Patent”), U.S. Patent No. 8,642,883 (the “883 Patent”), U.S. Patent No. 8,982,109 (the “109 Patent”), U.S. Patent No. 8,982,110 (the “110 Patent”) for which the Parties have reached agreed-upon constructions, as well as claim terms for which the parties have a dispute, together with the Parties’ proposed constructions of the disputed claim terms and citations to the supporting intrinsic evidence. Each side reserves the right to address and rely upon the intrinsic evidence cited by the other side. The terms below are identified based on the asserted claims and information currently known to the Parties. The patents and supporting intrinsic evidence are attached hereto as Exhibits 1-8.

AGREED CONSTRUCTIONS

Claim Term	Parties' Agreed Upon Construction
whether the preamble of claim 1 is limiting (109 Patent)	Preamble is limiting.
"mirror tracking mode" (110 Patent)	A mode of tracking a user to mimic a mirror reflection of the user.

DISPUTED CONSTRUCTIONS

Claim Term	Plaintiffs' Proposed Construction & Intrinsic Evidence	Defendants' Proposed Construction & Intrinsic Evidence
1. whether the preambles of the independent claims are limiting (481 Patent, 883 Patent)	<p>Preamble is limiting</p> <p>Intrinsic evidence:</p> <p>481 Patent: Claims 1, 12, 16</p> <p>883 Patent: Claims 1, 12</p> <p>481 Patent at Abstract; 1:24-48; 1:53-64; 2:36-46; 2:50-3:3; 3:30-33; 3:34-40; 3:41-51; 3:62-4:10; 4:11-45; 5:47-57; 6:50-64; 6:65-7:5; 8:38-49; 8:50-9:8; 9:9-18; 9:19-44; 9:45-64; 9:65-10:17; 10:18-29; 10:44-47; 10:48-61; 10:62-65; 10:66-11:6; 11:7-20; 11:21-61; 11:62-12:9</p> <p>481 Patent at Figs. 1, 2A, 2B, 3A, 3B, 3C, 4 and accompanying text</p>	<p>The preambles are not limiting.</p> <p>'481, claims 1, 12, and 16; '883, claims 1 and 12</p>

Claim Term	Plaintiffs' Proposed Construction & Intrinsic Evidence	Defendants' Proposed Construction & Intrinsic Evidence
<p>2. "mirror mode" (481 Patent, 883 Patent)</p>	<p>A mode to display the current appearance of a user as if reflected in a mirror</p> <p>Intrinsic evidence:</p> <p>481 Patent at 1:55-65; 2:5-10; 2:30-36; 3:40-51; 4:15-20; 4:21-34; 5:4-25; 8:1-37; 10:66-11:5; 11:6-9; 11:12-20</p> <p>481 Patent at Claims 1, 12, 13</p> <p>883 Patent at Claims 1, 12</p> <p>481 Patent at Figs. 3A, 3B, 3C and accompanying text</p> <p>109 Patent at Abstract; 2:61-3:7; 3:15-20; 3:39-57; 5:20-6:45; 7:23-31; 9:25-10:34; 12:62-13:16, 13:24-57, 28:5-37</p> <p>109 Patent at Claim 17</p> <p>109 Patent at Figs. 1, 2A, 2B, 3A, 3B, 4, and accompanying text</p>	<p>A mode of operating as a mirror, where a "mirror" is a reflective surface.</p> <p>'481, Abstract, col. 1:59-64, 2:5-11, 2:37-46, 3:41-51, 4:11-45, 4:46-5:25, 5:26-34, 7:57-67, 8:1-10, 8:54-9:8, 10:48-61, 10:66-11:20, 11:28-34, 11:46-52, 11:53-57; claims 1, 12, 16; Figs. 1, 2A, 2B, 3A, 3B, 4; '109, col. 1:61-63; '110, col. 1:55-57. See also citations for "mirror mode" (109 Patent).</p>
<p>3. "mirror mode" (109 Patent)</p>	<p>A mode to display the current appearance of a user as if reflected in a mirror</p> <p>Intrinsic evidence:</p>	<p>A mode of operating as a mirror, where a "mirror" is a reflective surface, or as a display that mimics a reflection of a mirror.</p>

Claim Term	Plaintiffs' Proposed Construction & Intrinsic Evidence	Defendants' Proposed Construction & Intrinsic Evidence
	<p>109 Patent at 3:2-7; 3:15-20; 3:48-57; 4:15-17; 5:20-29; 5:61-6:20; 7:23-31; 9:53-10:15; 12:62-13:16; 13:17-57; 28:5-37</p> <p>109 Patent at Claim 17</p> <p>109 Patent at Figs. 3A, 3B, 4 and accompanying text</p> <p>See intrinsic evidence for “mirror mode” (481 Patent, 883 Patent)</p>	<p>'109, Abstract, col. 2:64-3:7, 3:15-20, 3:48-55, 5:20-29, 5:61-66, 6:1-14, 9:53-10:33, 12:62-13:5, 13:24-30, 13:49-57, 28:5-37, Figs. 1, 2A, 2B, 3A, 3B, 4, claim 17. See also citations for “mirror mode” (481 Patent, 883 Patent).</p>
<p>4. “display mode” (481 Patent, 883 Patent, 109 Patent)</p>	<p>A mode to display a previously captured user appearance</p> <p>See intrinsic evidence for “mirror mode” (481 Patent, 883 Patent)</p>	<p>A mode of operating as a display.</p> <p>'481, Abstract, col. 1:59-64, 2:5-10, 2:31-35, 2:37-46, 2:30-46, 3:41-51, 3:55-4:10, 4:11-45, 4:46-5:25, 7:57-67, 8:1-37; 11:7-20, 11:53-57, Figs. 2B, 3C, 4; '109, Abstract, col. 2:64-3:7, 3:15-20, 3:39-44, 3:48-57, 5:20-24, 5:29-33, 5:61-6:1, 6:13-20, 6:21-32, 6:33-45, 6:46-63, 9:53-10:33, 13:5-16, 28:5-37, Figs. 2B, 3C, 4, claim 17.</p>
<p>5. “mirror-display device” (481 Patent, 883 Patent)</p>	<p>Plain and ordinary meaning as understood by a person of ordinary skill in the art</p> <p>Intrinsic evidence:</p>	<p>A device able to operate selectably as a mirror or as a display, where a “mirror” is a reflective surface.</p> <p>'481, Abstract, col. 1:56-64, 2:5-11, 2:37-46, 3:41-51, 4:11-45, 4:46-5:25, 7:57-67,</p>

Claim Term	Plaintiffs' Proposed Construction & Intrinsic Evidence	Defendants' Proposed Construction & Intrinsic Evidence
	<p>481 Patent at Abstract; 1:56-64; 2:5-10; 2:15-17; 2:30-36; 2:37-46; 3:41-51; 3:55-61; 3:62-4:10; 4:11-34; 4:46-58; 4:59-5:3; 5:4-25; 5:26-34; 7:18-29; 7:57-66; 8:1-37; 8:38-49; 8:50-9:8; 9:19-44; 9:45-64; 9:65-10:17; 10:30-34; 10:48-61; 10:66-11:6; 11:7-20; 11:21-61</p> <p>481 Patent at Figs. 1, 2A, 2B, 3A, 3B, 4 and accompanying text</p> <p>U.S. Provisional App. No. 60/656,884 at pp. 1</p> <p>U.S. Provisional App. No. 60/656,885 at pp. 5, 7</p>	<p>8:1-37, 8:50-60, 10:48-11:20, 11:53-61, Figs. 1-4; '109, col. 1:61-63; '110, col. 1:55-57.</p>
<p>6. "field-of-view in front of said mirror display device" (481 Patent, 883 Patent)</p>	<p>field-of-view in front of the display of the mirror display device</p> <p>Intrinsic evidence:</p> <p>481 Patent at 1: 64-65; 3:46-53; 4:20-30; 5:28-36; 11:11-16</p> <p>481 Patent at Fig. 3B and accompanying text</p> <p>U.S. Provisional App. No. 60/656,884 at 6</p>	<p>No construction necessary; plain and ordinary meaning.</p> <p>'481, Abstract, col. 1:59-64, 2:37-43, 4:11-34, 5:26-34, 8:50-60, 10:48-55, 11:35-39, 11:46-52, Figs. 1-4.</p>

Claim Term	Plaintiffs' Proposed Construction & Intrinsic Evidence	Defendants' Proposed Construction & Intrinsic Evidence
	U.S. Provisional App. No. 60/656,884 at Fig. 1A, 1B, 1G and accompanying text	
7. "virtual effects" (883 Patent)	<p>software manipulation of a user appearance to give it qualities that it does not have in reality</p> <p>Intrinsic evidence:</p> <p>481 Patent at 9:45-63</p> <p>U.S. Provisional App. No. 60/656,884 at pp. 1, 8</p> <p>U.S. Provisional App. No. 60/656,885 at pp. 1, 4</p>	<p>No construction necessary; plain and ordinary meaning.</p> <p>'481, col. 9:45-64; '883, claim 17</p>
8. "appears to mimic a reflection of a mirror" (109 Patent)	<p>simulates the apparent behavior of a conventional mirror when displaying a user</p> <p>Intrinsic evidence:</p> <p>109 Patent at 1:61-2:48; 3:15-20; 3:38-57; 4:19-21; 4:28-30; 5:5-30; 5:60-6:20; 6:21-45; 7:23-31; 8:46-9:2; 9:25-11:5; 11:31-60; 11:6-13:2; 12:58-13:57; 13:3-15:2; 14:13-59; 14:29-38; 15:26-47; 15:3-17:17; 15:4-15; 15:48-58; 15:59-16:7; 16:25-50; 16:63-17:17; 17:18-18:18; 17:55-63; 18:19-26; 18:40-20:14; 19:13-30; 2:61-</p>	<p>Appears to mimic the image that would have reflected from a mirror, i.e., from a reflective surface.</p> <p>'109, col. 1:26-33, 1:61-2:54, 4:28-30, 4:45-47, 14:6-15:15, 15:16-40, 15:41-58, 15:59-16:17, 16:50-17:17, 17:18-28, 17:29-54, 18:19-19:52, 20:51-21:60, 21:61-22:13, 22:27-23:8, 23:9-24:7, 24:22-34, 24:35-25:8, 27:3-16, 27:18-40, 28:5-37, 28:49-29:38, 29:43-30:11, Figs. 9, 16.</p>

Claim Term	Plaintiffs' Proposed Construction & Intrinsic Evidence	Defendants' Proposed Construction & Intrinsic Evidence
	<p>3:8; 20:50-63; 21:19-30; 21:61-22:13; 21:7-23:23; 22:40-24:62; 23:24-40; 23:41-24:3; 23:9-23; 24:22-35; 24:35-62; 24:4-21; 24:63-26:36; 27:3-17; 27:3-28:37; 28:49-29:6; 29:6-30:33; 30:6-11</p> <p>109 Patent at Claims 1, 17</p> <p>109 Patent at Figs. 1, 2a, 2b, 3a, 3b, 3c, 4, 5a, 5b, 6, 7, 8, 9, 10A, 10B, 11, 12, 13 14, 15, 16 and accompanying text</p> <p>U.S. Provisional App. No. 60/656884 at pp. 1, 45, FIG 1A, MAIN 1 and accompanying text</p> <p>U.S. Provisional App. No. 60/656885 at pp. 1, 7</p> <p>U.S. Provisional App. No. 61/738957 at pp. 1-28</p>	
<p>9. "mirror-mimicking image" (109 Patent)</p>	<p>an image that simulates the apparent behavior of a conventional mirror when displaying a user</p> <p>See intrinsic evidence for "appears to mimic a reflection of a mirror" (109 Patent)</p>	<p>An image that mimics the image that would have reflected from a mirror, i.e., from a reflective surface.</p> <p>See intrinsic evidence for "appears to mimic a reflection of a mirror" (109 Patent)</p>

Claim Term	Plaintiffs' Proposed Construction & Intrinsic Evidence	Defendants' Proposed Construction & Intrinsic Evidence
<p>10. "the non-ordered steps" (109 Patent)</p>	<p>Plain and ordinary meaning as understood by a person of ordinary skill in the art</p> <p>Intrinsic evidence:</p> <p>109 Patent at 30:51-67; 23:9-23; 23:24-40; 23:41-24:3; 24:4-21; 24:22-24; 6:12-60; 14:12-60; 15:40-16:62; 18:40-57; 19:13-52; 21:30-22:12; 23:10-24:21; 24:35-25:10; 26:36-27:2; 27:40-28:5; 28:49-29:5; 29:21-43</p> <p>109 Patent at Figs. 6, 9, 10, 11, 12, 13, 14, 15, 16 and accompanying text</p> <p>109 Patent at Claims 1, 6, 12</p> <p>The file history of the 109 Patent, including 2013-03-15 Application (EYESMATCH 0000597 – EYESMATCH 0001135 at EYESMATCH 0000649, EYESMATCH 0000651-652); 2014-12-05 Notice of Allowance and Fees Due (EYESMATCH 0000597 – EYESMATCH 0001135 at EYESMATCH 0001019-1020).</p> <p>See also intrinsic evidence for "applying a transformation mapping to the image to modify the image such that is appears to</p>	<p>Indefinite.</p> <p>'109, claim 1, col. 29:22-42</p> <p>'109 patent prosecution history, 12/5/2014 Notice of Allowance at 2-4</p>

Claim Term	Plaintiffs' Proposed Construction & Intrinsic Evidence	Defendants' Proposed Construction & Intrinsic Evidence
	mimic a reflection of a mirror” (109 Patent)	
11. order of method steps (109 Patent)	<p>Plain and ordinary meaning as understood by a person of ordinary skill in the art</p> <p>Intrinsic evidence:</p> <p>109 Patent at 30:51-67; 23:9-23; 23:24-40; 23:41-24:3; 24:4-21; 24:22-24; 6:12-60; 14:12-60; 15:40-16:62; 18:40-57; 19:13-52; 21:30-22:12; 23:10-24:21; 24:35-25:10; 26:36-27:2; 27:40-28:5; 28:49-29:5; 29:21-43</p> <p>109 Patent at Figs. 6, 9, 10, 11, 12, 13, 14, 15, 16 and accompanying text</p> <p>109 Patent at Claims 1, 6, 12</p> <p>The file history of the 109 Patent, including 2013-03-15 Application (EYESMATCH 0000597 – EYESMATCH 0001135 at EYESMATCH 0000649, EYESMATCH 0000651-652); 2014-12-05 Notice of Allowance and Fees Due (EYESMATCH 0000597 – EYESMATCH 0001135 at EYESMATCH 0001019-1020).</p>	<p>Indefinite.</p> <p>’109, claim 1, col. 29:22-42</p> <p>‘109 patent prosecution history, 12/5/2014 Notice of Allowance at 2-4</p>

Claim Term	Plaintiffs' Proposed Construction & Intrinsic Evidence	Defendants' Proposed Construction & Intrinsic Evidence
	See also intrinsic evidence for “appears to mimic a reflection of a mirror” (109 Patent)	

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MORRIS, NICHOLS, ARSHT &
TUNNELL LLP

/s/ Karen Jacobs

Jack B. Blumenfeld (#1014)
Karen Jacobs (#2881)
Cameron P. Clark (#6647)
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899
(302) 658-9200
jblumenfeld@morrisnichols.com
kjacobs@morrisnichols.com
cclark@morrisnichols.com

OF COUNSEL:

Heidi Keefe
Reuben H. Chen
Lowell Mead
Elizabeth Stameshkin
COOLEY LLP
3175 Hanover Street
Palo Alto, CA 94304-1130
(650) 843-5000

Attorneys for Defendants

Respectfully submitted,

FARNAN LLP

/s/ Brian E. Farnan

Brian E. Farnan (Bar No. 4089)
Michael J. Farnan (Bar No. 5165)
919 North Market Street, 12th Floor
Wilmington, DE 19801
Telephone: (302) 777-0300
Facsimile: (302) 777-0301
bfarnan@farnanlaw.com
mfarnan@farnanlaw.com

OF COUNSEL:

Matthew D. Powers
William P. Nelson
Natasha M. Saputo
Gina Cremona
TENSEGRITY LAW GROUP, LLP
555 Twin Dolphin Drive, Suite 650
Redwood Shores, CA 94065
Telephone: (650) 802-6000
Facsimile: (650) 802-6001
matthew.powers@tensegritylawgroup.com
william.nelson@tensegritylawgroup.com
natasha.saputo@tensegritylawgroup.com
gina.cremona@tensegritylawgroup.com
eyesmatch_service@tensegritylawgroup.com

*Attorney for Plaintiffs,
EyesMatch Ltd. and Memomi Labs Inc.*