

IN THE 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)

**DEFENDANTS' PRELIMINARY DISCLOSURE OF PROPOSED CLAIM
CONSTRUCTIONS AND IDENTIFICATION OF INTRINSIC EVIDENCE**

Pursuant to the Court's scheduling order, Defendants Facebook, Inc., Instagram, LLC and WhatsApp LLC (collectively "Defendants") provide the following disclosure. Defendants' review and analysis is ongoing. Defendants reserve the right to modify, amend, or supplement this disclosure in view of further information and analysis, including in response to positions and disclosures regarding claim construction that Plaintiffs may disclose.

'481 and '883 Patents

Term	Proposed Construction	Intrinsic Evidence ¹
"mirror-display device"	A device able to operate selectably as a mirror or as a display, where a "mirror" is a reflective surface.	'481, Abstract, col. 2:5-11, 2:37-46, 3:41-44, 4:11-18, 4:46-5:25, 8:1-37, 10:48-11:20, 11:53-61; '109, col.

¹ Citations to the '481 patent apply equally to the same content in the '883 patent for purposes of this disclosure.

Term	Proposed Construction	Intrinsic Evidence ¹
		1:61-63; '110, col. 1:55-57
“mirror mode”	A mode of operating as a mirror, where a “mirror” is a reflective surface.	'481, 3:41-51, 4:11-45, 4:46-5:25; '109, col. 1:61-63; '110, col. 1:55-57
“display mode”	A mode of operating as a display.	'481, 2:30-46, 3:41-51, 4:11-45, 4:46-5:25, 8:1-37
“mirror image”	An image as it appears reflected in a mirror, where a “mirror” is a reflective surface.	'481, 3:41-51, 4:11-45, 4:46-5:25; '109, col. 1:61-63; '110, col. 1:55-57
“mirrored image”	Indefinite	'481, 8:1-37
whether the preambles of the independent claims are limiting	The preambles are not limiting.	
“field-of-view in front of said mirror display device”	No construction necessary at this time.	'481, 5:26-34
“virtual effect”	No construction necessary at this time.	'481, 9:45-64

'109 Patent

Term	Proposed Construction	Intrinsic Evidence
whether the preamble of claim 1 is limiting	The preamble is limiting.	Claim 1; '109, col. 2:28-31, 14:12-27, 17:1-4, 27:3-

Term	Proposed Construction	Intrinsic Evidence
		17, 27:37-40, 29:43-58
“mirror-mimicking image”	An image that mimics the image that would have reflected from a mirror, i.e., from a reflective surface.	’109, col. 2:28-31, 14:12-27, 17:1-4, 27:3-17, 27:37-40, 29:43-58
“the non-ordered steps”	Indefinite	Claim 1, ’109, col. 29:22-42 ’109 patent prosecution history, 12/5/2014 Notice of Allowance at 2-4
Order of method steps	Indefinite	Claim 1, ’109, col. 29:22-42 ’109 patent prosecution history, 12/5/2014 Notice of Allowance at 2-4
“varying rate at which the non-ordered steps are performed on the series of images according to the distance”	Indefinite	Claim 1, ’109, col. 27:41-28:4, 30:33-36 ’109 patent prosecution history, 12/5/2014 Notice of Allowance at 2-4
“appears to mimic a	Appears to mimic the image that would	’109, col. 1:26-33, 1:61-

Term	Proposed Construction	Intrinsic Evidence
reflection of a mirror”	have reflected from a mirror, i.e., from a reflective surface.	<p>2:54, 4:28-30, 4:45-47, 14:6-15:15, 15:16-40, 15:41-58, 15:59-16:5, 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, 28:49-29:38, 29:43-30:11, Figs. 9, 16</p> <p>Provisional App. No. 61/738,957 at 1, 2-4, 7, 17</p>
“applying a transformation mapping to the image to modify the image such that it appears to mimic a reflection of a mirror”	No construction necessary at this time beyond “appears to mimic a reflection of a mirror”	<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, 15:59-16:5, 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, 28:49-29:38, 29:43-30:11, Figs. 9, 16</p>

Term	Proposed Construction	Intrinsic Evidence
“mirror mode”	See “mirror mode” above.	’109, col. 5:61-66

’110 Patent only

Term	Proposed Construction	Intrinsic Evidence
“the user”	Indefinite	Claim 1, ’110, col. 3:18-21, 4:66-5:1, 5:29-36, 5:64-67, 7:35-41, 7:49-54, 24:7-10, 24:47-53
“mirror tracking mode”	A mode of tracking a user to mimic a mirror reflection of the user.	’110, col. 25:26-43, 25:57-26:23, 28:19-25, Fig. 17; ’109, col. 9:33-39, 15:48-58, 16:25-31
“the angle of the images captured by the camera”	Indefinite	’110, col. 2:42-44, 18:55-63, 20:29-60, 22:8-12, Fig. 5; ’109, col. 2:9-27, 2:43-46, 9:33-39, 19:13-22, 20:55-57, 29:38-42, 29:51-54; ’481, col. 7:37-43.

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CERTIFICATE OF SERVICE

I hereby certify that on October 29, 2021, a copy of the foregoing document was caused to be served upon the following in the manner indicated:

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