

Plaintiffs' Proposed Constructions and Intrinsic Evidence

Pursuant to Paragraph 7 of the Court's June 4, 2021 Scheduling Order (D.I. 23), Plaintiffs provide the following proposed claim constructions for the parties' list of proposed term(s)/phrase(s) that they believe need construction.

Plaintiffs reserve the right to amend and/or supplement these preliminary proposed constructions after receipt and review of Defendants' proposed constructions, in view of the meet and confer process to refine and narrow issues in dispute pursuant to the Court's Scheduling Order (D.I. 23), in light of ongoing discovery in the case, and/or as otherwise appropriate.

Plaintiffs' Term for Construction	Plaintiffs' Proposed Construction	Plaintiffs' Intrinsic Evidence
1. "mirror mode" (481 Patent, 883 Patent, 109 Patent)	A mode to display the current appearance of a user as if reflected in a mirror	481 Patent at 1:55-65; 2:5-10; 2:30-36; 3:40-51; 4:15-20; 4:21-34; 5:4-25; 8:19-26; 10:66-11:5; 11:6-9; 11:12-20 481 Patent at Claims 1, 12, 13 883 Patent at Claims 1, 12 481 Patent at Figs. 3A, 3B, 3C and accompanying text 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, 28:5-37 109 Patent at Claim 17 109 Patent at Figs. 1, 2A, 2B, 3A, 3B, 4, and accompanying text

Plaintiffs' Term for Construction	Plaintiffs' Proposed Construction	Plaintiffs' Intrinsic Evidence
2. “display mode” (481 Patent, 883 Patent, 109 Patent)	A mode to display a previously captured user appearance	See intrinsic support for Plaintiffs' Term #1, above
3. “field-of-view in front of said mirror display device” (481 Patent: 1(b), 1(c), 12(b), 16(b), 16(c); 883 Patent: 1(c), 12(b))	field-of-view in front of the display of the mirror display device	481 Patent at 1: 64-65; 3:46-53; 4:20-30; 5:28-36; 11:11-16 481 Patent at Fig. 3B and accompanying text U.S. Provisional App. No. 60/656,884 at 6 U.S. Provisional App. No. 60/656,884 at Fig. 1A, 1B, 1G and accompanying text
4. “virtual effects” (883 Patent)	software manipulation of a user appearance to give it qualities that it does not have in reality	481 Patent at 9:45-63 U.S. Provisional App. No. 60/656,884 at pp. 1, 8 U.S. Provisional App. No. 60/656,885 at pp. 1, 4
5. “applying a transformation mapping to the image to modify the image such that it appears to mimic a	Applying a set of image transformations to the image in order to simulate the apparent behavior of a conventional mirror when displaying a user	109 Patent at Abstract; 1:61-2:48; 2:61-3:8; 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; 15:4-15; 15:26-47; 15:3-17:17; 15:4-15; 15:48-58; 15:59-16:7; 16:25-40; 16:32-50; 16:63-17:17; 17:18-18:18; 17:55-63; 18:19-26; 18:40-20:14; 19:13-30; 20:50-63; 21:19-30; 21:61-22:13; 21:7-

Plaintiffs' Term for Construction	Plaintiffs' Proposed Construction	Plaintiffs' Intrinsic Evidence
reflection of a mirror" (109 Patent: 1(c))		<p>23:23; 22:40-24:62; 23:24-40; 23:41-24:3; 23:9-23; 24:4-21; 24:22-35; 24:35-62; 24:63-26:36; 27:3-28:37;; 28:51-29:6; 29:6-30:33</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</p> <p>U.S. Provisional App. No. 60/656884 at 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>

Defendants' Term for Construction	Plaintiffs' Proposed Construction	Plaintiffs' Intrinsic Evidence
1. "mirror-display device" (481 Patent, 883 Patent)	Plain and ordinary meaning as understood by a person of ordinary skill in the art	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; 11:21-61 481 Patent at Figs. 1, 2A, 2B, 3A, 3B, 4 and accompanying text U.S. Provisional App. No. 60/656,884 at pp. 1 U.S. Provisional App. No. 60/656,885 at pp. 5, 7
2. "mirror mode [of operation]" (481 Patent, 883 Patent)	See Plaintiffs' #1, Above	See intrinsic support for Plaintiffs' Term #1, Above
3. "display mode [of operation]" (481 Patent, 883 Patent)	See Plaintiffs' #2, Above	See intrinsic support for Plaintiffs' Term #1, Above
4. "mirror image" (481 Patent)	Plain and ordinary meaning as understood by a person of ordinary skill in the art	481 Patent at 4:11-45; 8:1-37 481 Patent at Figs. 1, 2A, 2B, 3A, 3B, 3C and accompanying text
5. "mirrored image" (481 Patent, 883 Patent)	Plain and ordinary meaning as understood by a person of ordinary skill in the art	481 Patent at 2:30-36; 4:11-45; 8:1-37 481 Patent at Figs. 1, 2, 2B, 3A, 3B, 3C and accompanying text

Defendants' Term for Construction	Plaintiffs' Proposed Construction	Plaintiffs' Intrinsic Evidence
6. whether the preambles of the independent claims are limiting (481 Patent, 883 Patent)	Preamble is limiting	<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>
7. whether the preamble of claim 1 is limiting (109 Patent)	Preamble is limiting	<p>109 Patent at 1:26-33; 4:25-27; 14:12-15:15; 17:5-17; 22:36-64; 25:60-26:12; 27:64-28:4; 28:5-62; 29:7-21; 28:5-23; 30:6-11; 30:51-67</p> <p>109 Patent: Claim 1</p> <p>109 Patent at Figs. 6, 8, 13, and accompanying text</p>
8. "mirror-mimicking image" (109 Patent)	Plain and ordinary meaning as understood by a person of ordinary skill in the art	See intrinsic support for Plaintiffs' Term #5, Above

Defendants' Term for Construction	Plaintiffs' Proposed Construction	Plaintiffs' Intrinsic Evidence
9. "the non-ordered steps" (109 Patent)	Plain and ordinary meaning as understood by a person of ordinary skill in the art	<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 intrinsic support for Plaintiffs' Term #5, Above</p>
10. order of method steps (109 Patent)	Plain and ordinary meaning as understood by a person of ordinary skill in the art	<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>

Defendants' Term for Construction	Plaintiffs' Proposed Construction	Plaintiffs' Intrinsic Evidence
		<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 intrinsic support for Plaintiffs' Term #5, Above</p>
11. “varying rate at which the non-ordered steps are performed on the series of images according to the distance.” (109 Patent)	Plain and ordinary meaning as understood by a person of ordinary skill in the art	<p>U.S. Provisional App. No. 61/738,957 at p. 7</p> <p>109 Patent at 27:41-28:5.</p> <p>109 Patent at Claim 1</p>
12. “applying a transformation mapping to the image to modify the image such that it appears to mimic a reflection of a mirror” (Plaintiffs) /	See Plaintiffs' #5, Above	<p>See intrinsic support for Plaintiffs' Term #5, Above</p> <p>109 Patent at 1:61-2:48 14:13-59 15:26-47 15:59-16:7 18:19-26 21:61-22:13 23:60-24:3 24:4-21 27:3-17 28:49-29:6 29:7-42 30:6-11</p> <p>109 Patent at Figs. 6, 8, 9 and accompanying text</p>

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"appears to mimic a reflection of a mirror." (109 Patent)		
13. "the user" (110 Patent)	Plain and ordinary meaning as understood by a person of ordinary skill in the art	<p>109 Patent at 2:4-48; 5:5-30; 5:60-6:20; 8:46-9:2; 9:25-11:5; 11:6-13:2; 13:3-15:2; 15:3- 17:17; 17:18-18:18; 18:40-20:14; 21:7-23:23; 22:40-24:62; 24:63-26:36; 27:3-28:37; 29:6-30:33</p> <p>109 Patent at Figs. 1, 2a, 2b, 3a, 3b, 3c, 4, 5a, 5b, 6, 7, 8, 9, 10a, 10b 12, 13 14, 15, 16 and accompanying text</p> <p>110 Patent at Abstract; 3:7-62; 4:66-5:1; 5:27-36; 7:22-26, 9:20-10:22,15:15-16:22, 20:30-60, 21:1-22:65, 23:19-24:62, 25:7-26:65, 27:3-28:65, 29:9-30-64, 31:1-32:52</p> <p>110 Patent at Claims 1, 2, 3, 5, 6, 7, 8</p> <p>110 Patent at Figs. 1-17 and accompanying text</p>
14. "mirror tracking mode" (110 Patent)	Plain and ordinary meaning as understood by a person of ordinary skill in the art	<p>109 Patent at Abstract; 2:61-3:8; 3:15-20; 3:38-57; 5:20-33; 5:60-6:20; 6:21-45, 7:23-31,9:25-10:33, 12:58-13:57, 14:29-38, 15:48-58, 16:25-40, 28:5-37</p> <p>109 Patent at Figs. 1-4. 6-16 and accompanying text</p>

Defendants' Term for Construction	Plaintiffs' Proposed Construction	Plaintiffs' Intrinsic Evidence
		<p>109 Patent at Claim 17</p> <p>110 Patent at 10:29-47; 21:60-22:25; 23:58-67; 24:64-25:6, 25:35-26:32; 28:47-57; 29:9-30:65; 31:7-16</p> <p>110 Patent at Figs 2-17 and accompanying text</p>
<p>15. “the processor utilizes the angle of the images captured by the camera” / “the angle of the images captured by the camera” (110)</p>	<p>Plain and ordinary meaning as understood by a person of ordinary skill in the art</p>	<p>US Provisional App. No. 61/738957 at 2, 3, 4, 6, 7, 8, 9, 10, 12, 13, 14, 17, 19, 20, 21, 22, 23, 26, 27</p> <p>109 Patent at 2:3-50; 9:25-52; 16:32-50; 16:63-17:17; 17:17-27; 17:55-63; 19:13-30; 20:50-63; 21:19-30; 23:40-24:35; 24:35-62; 25:53-59; 29:37-57</p> <p>109 Patent at Figs. 9, 12, 13, 16 and accompanying text</p> <p>110 Patent at Abstract; 2:38-45; 8:58-9:3; 18:55-67; 21:12-35; 21:65-22:25; 25:35-43, 26:26-36</p> <p>110 Patent at Fig. 5 and accompanying text</p>