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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

APPLE INC., a California corporation,
Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD., a
Korean business entity, SAMSUNG
ELECTRONICS AMERICA, INC., a New York
corporation, and SAMSUNG
TELECOMMUNICATIONS AMERICA, LLC, a
Delaware limited liability company,
Defendants.

Civil Action No. 11-CV-01846-LHK

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

Claim Construction
Hearing: Jan 20, 2012
Time: 10:00 a.m.
Place: Courtroom 4, 5th Floor
Judge: Honorable Lucy H. Koh

SAMSUNG ELECTRONICS CO., LTD., a
Korean business entity, SAMSUNG
ELECTRONICS AMERICA, INC., a New York
corporation, and SAMSUNG
TELECOMMUNICATIONS AMERICA, LLC, a
Delaware limited liability company, a California
corporation,

Counterclaim-Plaintiff,

v.

APPLE INC., a California corporation,
Counterclaim-Defendants.

1 In accordance with Northern District of California Patent Local Rule 4-3 and the Court's
2 Minute Order and Case Management Order (Dkt. No. 187), Plaintiff and Counterclaim-Defendant
3 Apple Inc. ("Apple") and Defendants and Counterclaim-Plaintiffs Samsung Electronics Co., Ltd.,
4 Samsung Electronics America, Inc. and Samsung Telecommunications America, LLC
5 (collectively, "Samsung") submit this Joint Claim Construction and Prehearing Statement.

6 Attached hereto as Exhibit A is a table setting forth the 10 claim terms which the parties
7 request that the Court construe, along with the intrinsic or extrinsic evidence on which the parties
8 currently intend to rely either in support of their own proposed constructions or in opposition to
9 the other party's proposed constructions.

10 The parties have not agreed on any claim constructions, and their dispute extends to more
11 than the 10 terms proposed here. Though the parties have only identified 10 disputed claim terms
12 pursuant to the Court's Case Management Order, they stand ready to provide additional
13 information or briefing at the Court's convenience.

14 The parties anticipate that the length of time necessary for the Claim Construction Hearing
15 will be approximately four hours.

16 Apple will submit declarations from, and may call as witnesses at the Claim Construction
17 Hearing, Richard Gitlin, Ph.D. and Tony Givargis, Ph.D. Dr. Gitlin will provide his expert
18 opinion that a person of ordinary skill in the art at the time of the patent application would have
19 interpreted the term "symbol" in U.S. Patent No. 7,200,792 according to Apple's proposed
20 construction, as will be set forth in more detail in an expert declaration being served on
21 Samsung's counsel today. Dr. Givargis will provide his expert opinion that a person of ordinary
22 skill in the art at the time of the patent application would have interpreted the term "applet" in
23 U.S. Patent No. 7,698,711 according to Apple's proposed construction, as will be set forth in
24 more detail in another expert declaration also being served on Samsung's counsel today.

25 Samsung will submit declarations from, and may call as witnesses at the Claim
26 Construction Hearing, Tipton Cole and Richard Dale Wesel, Ph.D. Mr. Cole will provide an
27 expert declaration in response to Dr. Givargis's opinion on "applet" in U.S. Patent No. 7,698,711,
28

1 and Dr. Wesel will provide an expert declaration in response to Dr. Gitlin’s opinion on “symbol”
2 in U.S. Patent No. 7,200,792.

3
4 Dated: November 14, 2011 By: /s/ Michael A. Jacobs
Michael A. Jacobs
5 Attorneys for Plaintiff and
6 Counterclaim-Defendant Apple Inc.

7 Dated: November 14, 2011 By: /s/ Todd Briggs
Todd Briggs
8 Attorneys for Defendants and
9 Counterclaim-Plaintiffs Samsung
10 Electronics Co., Ltd., Samsung
11 Electronics America, Inc. and Samsung
12 Telecommunications America, LLC

13 I, Michael A. Jacobs, am the ECF User whose ID and password are being used to file this **JOINT**
14 **CLAIM CONSTRUCTION AND PREHEARING STATEMENT.** In compliance with
15 General Order 45, X.B., I hereby attest that Todd Briggs has concurred in this filing.

16 Date: November 14, 2011

MORRISON & FOERSTER LLP

17
18 By: /s/ Michael A. Jacobs
Michael A. Jacobs
19 Attorneys for Plaintiff and Counterclaim-Defendant
20 Apple Inc.

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EXHIBIT A**I. APPLE'S PATENTS-IN-SUIT¹****U.S. Patent No. 6,493,002**

<u>Claim Term</u> <u>(relevant claims)</u>	<u>Apple's Proposed Construction and Support</u>	<u>Samsung's Proposed Construction and Support</u>
1. the first window region and the plurality of independent display areas implemented in a window layer that appears on top of application programming	No construction necessary. ----- 7:29-31; 8:44-46; 18:12-29; Fig. 3; Claims 12, 13. S. Christensen Dep. Tr. 43:20-44:3; 58:6-59:2.	The first window and the plurality of independent display areas are never obscured by any portion of any application windows that are generated or capable of being generated. ----- Fig. 2A; 6:41-52; November 8, 1999 Amendment and Response to Office Action, at 6-7 (APLNDC00028058-28059); June 28, 2000 Response to Final Office Action, at 3 (APLNDC00028084); June 6, 2001 Appeal Brief, <i>passim</i> .

¹ Apple footnote: following Samsung's final identification of 5 terms for submission to the Court from a list of over 20 candidates, Apple identified within one business day rebuttal citations in support of its positions on those terms.

Samsung footnote: on October 31, 2011, in compliance with Patent Local Rule 4-2, both Samsung and Apple produced proposed constructions and supporting evidence for a list of claim terms, including each claim term identified in this joint claim construction chart. On November 11, 2011, each party selected 5 claim terms from that list. Apple, however, did not identify any evidence for its claim construction positions for Claim Terms 1, 2, 4, 6, 7, and 8 until less than 4 hours before the deadline for the joint claim construction chart. For that reason, Samsung reserves the right to amend or supplement its positions with additional evidence of its own. For all claim terms where Samsung's proposed construction is "Plain and ordinary meaning," Samsung also reserves the right to identify additional evidence to rebut positions taken by Apple.

windows that may be generated (claims 1, 25, 26, 50)		S. Christensen Dep. Tr. at 23:7-24:2, 42:9-43:18, 75:8-19, 126:11-127:22; Exhibit 978 (APLNDCX0000002323).
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U.S. Patent No. 7,469,381

<p><u>Claim Term</u> <u>(relevant claims)</u></p>	<p><u>Apple’s Proposed Construction and Support</u></p>	<p><u>Samsung’s Proposed Construction and Support</u></p>
<p>2. an edge of the electronic document / the edge of the electronic document / the edge of the document / an edge of the document (claims 1, 11, 13, 14, 16-20)</p>	<p>No construction necessary.</p> <p>-----</p> <p>2:63-66; 3:4-18; 21:23-34; 26:33-67; 27:5-17; 27:25-39; 28:34-47; 30:48-59; Fig. 7.</p> <p>B. Ording 8/9/11 Dep. Tr. 24:21-25:8; 26:11-27:19.</p> <p>A. Van Dam Dep. Tr. 30:19-31:4; 32:6-33:14.</p> <p>Reply Declaration of Ravin Balakrishnan, Ph.D. in Support of Apple’s Motion for Preliminary Injunction, ¶¶ 12, 28.</p>	<p>A boundary of the electronic document that distinguishes it from another electronic document, other content, or a background area.</p> <p>-----</p> <p>’381 Patent at 3:4-18; 21:23-34; 27:25-39; 28:34-47; 30:48-59; Figures 8A-8D; Figure 10B.</p> <p>Deposition of Bas Ording, 8/9/11, Transcript at 20:18-21:3; 27:13- 28:18; 161:13-163:2.</p> <p>Deposition of Ravin Balakrishnan, 8/16/11, Transcript at 147:16-158:22; Exhibit 104.</p> <p>Deposition of Andries Van Dam, 9/14/11, Transcript at 38:7 - 39:3; 118:10-17; 126:2-15.</p> <p>Declaration of Andries Van Dam in Support of Samsung’s Opposition to Apple’s Motion for Preliminary Injunction, 8/22/11, ¶¶ 45, 47, 49, 52, 53.</p>

U.S. Patent No. 7,663,607

<u>Claim Term</u> <u>(relevant claims)</u>	<u>Apple’s Proposed Construction and Support</u>	<u>Samsung’s Proposed Construction and Support</u>
3. glass member (claim 10)	glass or plastic material ----- 10:37-40; 13:62-64; 14:60-63; 16:43-47. J. Strickon Dep. Tr. at 164:19-165:13. B. Huppi Dep. Tr. at 31:5-21.	Plain and ordinary meaning

U.S. Patent No. 7,812,828

<p><u>Claim Term</u> <u>(relevant claims)</u></p>	<p><u>Apple’s Proposed Construction and Support</u></p>	<p><u>Samsung’s Proposed Construction and Support</u></p>
<p>4. mathematically fit[ting] an ellipse to at least one of the [one or more] pixel groups (claims 1, 10)</p>	<p>No construction necessary</p> <p>-----</p> <p>27:1-8; Claims 1, 2, 3, 5, 8, 11, 13, 15, 17, 19, 29.</p> <p>Westerman Dep. Tr. 108:21-113:17.</p> <p>The references cited in Exhibits A-1, A-5, A-8, and A-9 to Samsung’s October 7, 2011 Patent L.R. 3-3 and 3-4 Disclosures, including, but not limited to, U.S. Patent No. 4,618,989; U.S. Patent No. 5,734,751; E.R. Davies, Machine Vision: Theory, Algorithms, Practicalities (2d Ed.) (Nov. 1996); Apurva Mahendra Desai, Interpretation of Tactile Data from an FSR Pressure Pad Transducer Using Image Processing Techniques, Master’s Thesis, Simon Fraser University, Canada (Nov. 1994).</p> <p>Apple objects to the use of inadmissible materials from the ITC investigation titled <i>In the Matter of Certain Mobile Devices and Related Software</i>, 337-TA-750, but to the extent that Samsung relies on such materials in its <i>Markman</i> briefing, Apple reserves the right to rely on related testimony or materials in its rebuttal, including, but not limited to, that from</p>	<p>For at least one of the pixel groups, applying a unitary transformation of the group covariance matrix of second moments of proximity data for all pixels in that pixel group to fit an ellipse</p> <p>-----</p> <p>See Amendment dated 2/24/2010 (application no. 11/677,958) at 10-12.</p> <p>See also Interview Summary dated 2/2/2010 (application no. 11/677,958).</p> <p>See also U.S. Patent No. 7,812,828 (‘828 Patent) at 26:17-46.</p> <p>Documents from <i>In the Matter of Certain Mobile Devices and Related Software</i>, 337-TA-750, including but not limited to deposition testimony and exhibits, parties’ claim construction disclosures, parties’ expert reports, parties’ prehearing briefs, trial testimony and exhibits, parties’ posthearing briefs, and initial and final determinations.</p>

<u>Claim Term</u> <u>(relevant claims)</u>	<u>Apple's Proposed Construction and Support</u>	<u>Samsung's Proposed Construction and Support</u>
	Andrew Wolfe, Ph.D., Ravin Balakrishnan, Ph.D., and Wayne Westerman, Ph.D.	
5. pixel group[s] / pixel[s] (claims 1, 6, 9, 10, 16, 24, 31)	portion[s] of a proximity image that indicate[s] the proximity data measured at one or more electrodes ----- 6:22-49; 8:53-9:20; 18:12-15.	Plain and ordinary meaning

U.S. Patent No. 7,844,915

<u>Claim Term (relevant claims)</u>	<u>Apple’s Proposed Construction and Support</u>	<u>Samsung’s Proposed Construction and Support</u>
6. scrolling a window having a view associated with the event object (claims 1, 8)	No construction necessary. ----- 1:40-42; 2:7-10; 2:15-18; 5:25-30; 5:33-40; 6:32-53; 7:12-13; 7:34-42; 7:59-67; 8:4-25; 8:26-10:42; 22:17-30; 22:49-61; Figs. 1-4; 5A-C, 6A-D.	sliding a window in a direction corresponding to the direction of the user input over a view that is stationary relative to the window ----- 1:39-47, 2:1-10, 5:25-47.

U.S. Patent No. 7,853,891

<u>Claim Term</u> <u>(relevant claims)</u>	<u>Apple's Proposed Construction and Support</u>	<u>Samsung's Proposed Construction and Support</u>
7. starting a timer (claims 1, 21, 26, 46, 51, 71)	Initiating a time keeping process. ----- 9:35-39.	initiation of a timekeeping process that begins at a predetermined value and counts down until zero ----- <i>See, e.g.,</i> U.S. Patent No. 7,853,891 at Abstract; Figures 12, 13, and 14; 2:22-24; 2:28-31; 2:30-37; 2:49-50 5:65-6:1; 6:21-25; 7:11-20; 8:6-15; 8:23-25; 9:47-49. Deposition testimony of Imran Chaudhri, 10/14/2011, 70:10-16, 71:3-17.
8. the first window has been displayed independent[ly] from a position of a cursor on the screen (claims 1, 20, 26, 45, 51, 70)	No construction necessary. ----- 3:8-12; 7:26-31; 9:9-13; Figs. 7-10, 16-21.	there is a mouse pointer or a similar icon that is controlled by a mouse, track ball, or touch pad visible on the screen and the user's movement of the mouse pointer or similar icon does not affect the location of the first window ----- <i>See, e.g.,</i> U.S. Patent No. 7,853,891 at 1:41-46; 1:55-62; 2:13-20; 3:8-12; 7:26-31; 9:9-13. <i>See also, e.g.,</i> Amendment dated June 15, 2006 (application no. 10/193,573) at 23; Amendment dated March 4, 2010 (application no. 12/012,384) at 22; US 2003/0016253 (Aoki), Abstract. Deposition testimony of Imran Chaudhri, 10/14/2011, 81:8-84:4. Deposition testimony of Christensen, 10/26/2011, 118:13-119:12.

II. SAMSUNG’S PATENTS IN SUIT

U.S. Patent No. 7,698,711

<p><u>Claim Term</u> <u>(Relevant Claims)</u></p>	<p><u>Samsung’s Proposed Construction and Support</u></p>	<p><u>Apple’s Proposed Construction and Support</u></p>
<p>9. applet (claims 1, 9, and 17)</p>	<p>A small application designed to run within another program.</p> <p>-----</p> <p>3:10-14. Wiley Electrical and Electronics Engineering Dictionary, 2004.</p>	<p>An operating system- independent computer program that runs within an application module.</p> <p>-----</p> <p>3:8-14; Claims 1, 9, and 17 U.S. Patent Application No. 11/778,466, Examiner’s Interview Summary of December 16, 2009, <i>see</i> Continuation Sheet. U.S. Patent Application No. 11/778,466, Applicant’s December 8, 2009 Arguments/Remarks Made in an Amendment at pp. 6-10. <i>McGraw-Hill Dictionary of Scientific and Technical Terms</i> (6th Ed., 2003) at p.124. Joan Reitz, <i>Dictionary for Library and Information Science</i> (1st Ed., 2004) at p.34. Eliotte Harold, <i>Java Developer’s Resource</i> (1997) at pp.9-34. Walter Savitch, <i>Java: An Introduction to Computer Science & Programming</i> (3rd Ed., 2004), Chapters 1, 13. Hoskins, J. and Bluethman, R. <i>Exploring IBM e-server pSeries</i> (12th Ed., 2004) at p.226. Healy, M.R., Berger, D.E., Romero, V.L., Aberson, C.L., & Saw, A. Evaluating JAVA applets for teaching on the Internet. <i>Proceedings of the Scuola Superiore G. Reis Romoli Advances in Infrastructure for e-Business, e-Education, e-Science, and e-</i></p>

<u>Claim Term</u> <u>(Relevant Claims)</u>	<u>Samsung's Proposed Construction and Support</u>	<u>Apple's Proposed Construction and Support</u>
		<p><i>Medicine on the Internet International Conference</i>. (2002) at p.1-5, available online at: http://ccd.libraries.claremont.edu/cdm4/item_viewer.php?CISO_ROOT=/irw&CISOPTR=432</p> <p>Elizabeth Boese, “<i>Interactive Programming with Java Applets</i>” (2005) at pp.7-20 (available online at http://books.google.com/books?id=mEC7H9WxXHEC&pg=PA8&dq=applets+are+operating+system+platform+independent&hl=en#v=onepage&q&f=false)</p> <p>Godbole, A. S. and Kahate, A. “<i>Web Technologies TCP/IP Architecture, and Java Programming</i>” (2nd Ed., 2002) at p.524. (available online at http://books.google.com/books?id=uEufGycOJRSC&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=true)</p>

U.S. Patent No. 7,200,792

<u>Claim Term</u> <u>(relevant claims)</u>	<u>Samsung’s Proposed Construction and Support</u>	<u>Apple’s Proposed Construction and Support</u>
10. symbol (claims 11 and 14)	Plain and ordinary meaning	<p>“a modulated pattern in a sequence of such patterns that represents a plurality of bits”</p> <p>-----</p> <p>See Abstract; 1:60-2:5; 2:10-52; 3:8-22; 8:29-34; 8:35-39; 8:41-46; 10:17-64; 13:54-63; 23:36-48; Figs. 3-5; Claims 1, 5, 6, 10, 11, 14;</p> <p>Prior art document R1-01-0533 (produced as APLNDC-WH-A 0000006478-6484.</p> <p><i>Authoritative Dictionary of IEEE Standards Terms</i>, p. 1137.</p>