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FIRSTFACE CO., LTD.

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

21 FIRSTFACE CO., LTD.,
22 Plaintiff,
23 v.
24 APPLE INC.,
25 Defendant.

CASE NO. 3:18-cv-02245-JD

**PLAINTIFF’S NOTICE OF MOTION
AND MOTION FOR PARTIAL
SUMMARY JUDGMENT THAT THE
ACCUSED PRODUCTS PRACTICE
THE POWER BUTTON LIMITATIONS;
MEMORANDUM OF POINTS AND
AUTHORITIES**

26 DATE: March 30, 2023
27 TIME: 10:00 a.m.
PLACE: Courtroom 11
JUDGE: Hon. James Donato

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III. LEGAL STANDARD..... 6

IV. ARGUMENT 6

 A. The Court should grant partial summary judgment because each Accused Product includes a power button for pressing to turn on the device. 6

 1) *Apple’s non-infringement position implicates a claim construction issue for the Court to resolve*..... 7

 2) *The Court should hold that “a power button for pressing to turn on/off the terminal” requires only that the power button turn on or off the terminal* 8

 3) *The Court should grant partial summary judgment because it is undisputed that the power button of each Accused Product turns on the device.* 11

 B. The Court should grant partial summary judgment even if the Court determines that the claims require a power button that turns on and off the terminal. 12

 1) *Apple is judicially estopped from arguing that the Accused Products do not include “a power button for pressing to turn on/off the terminal.”* 12

 2) *The Accused Products’ power button turns on and off a terminal in response to a press* 15

V. CONCLUSION..... 16

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1 **NOTICE OF MOTION**

2 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

3 PLEASE TAKE NOTICE that on March 30, 2023 at 10:00am, or as soon thereafter as the matter
4 may be heard in Courtroom 11 of the United States District Court for the Northern District of California,
5 located at 450 Golden Gate Avenue, San Francisco, California 94102, Plaintiff Firstface Co., Ltd.
6 (“Firstface”) will present for hearing and ruling Plaintiff’s Motion for Partial Summary Judgment that
7 the Accused Products Practice the “Power Button” Limitations. Firstface bases this Motion on this
8 Notice of Motion, its Memorandum of Points and Authorities, the pleadings, records, and files in this
9 action, and all other written or oral arguments or evidence that the parties may present to the Court
10 relating to this Motion.

11 **STATEMENT OF RELIEF REQUESTED**

12 Firstface respectfully requests that the Court enter an Order holding as a matter of law that the
13 Accused Products practice the limitation “a power button for pressing to turn on/off the terminal” in
14 claim 11 of U.S. Patent No. 9,633,373 and claim 10 of U.S. Patent No. 9,779,419.

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