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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SAMSUNG ELECTRONICS CO., LTD.,  
SAMSUNG ELECTRONICS AMERICA, INC., and  
SAMSUNG TELECOMMUNICATIONS AMERICA, LLC,  
and  
LG ELECTRONICS, INC., LG ELECTRONICS U.S.A., INC., and LG  
ELECTRONICS MOBILECOMM U.S.A., INC.  
Petitioners

v.

BLACK HILLS MEDIA, LLC  
Patent Owner

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Case No. IPR2014-00717  
Case No. IPR2015-00335  
U.S. Patent 6,108,686

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**PATENT OWNER'S MOTION FOR OBSERVATIONS  
REGARDING CROSS-EXAMINATION OF PETITIONER'S  
REPLY WITNESS KEVIN C. ALMEROOTH, PH.D.**

**UPDATED TABLE OF EXHIBITS**

**Previously filed**

Exhibit Description	Exhibit #
Redacted Rebuttal Witness Statement of Mr. Ivan Zatkovich for Investigation No. 337-TA-882 at the United States International Trade Commission (“Zatkovich Rebuttal Witness Statement”)	2001
Proposed Discovery Requests	2002
Mobile Application Distribution Agreement	2003
Complaint in <i>Black Hills Media, LLC v. Samsung Elecs. Co., Ltd., et al.</i> , No. 2:13-cv-00379 (E.D. Tex.).	2004
Complaint Under Section 337 of the Tariff Act of 1930, As Amended, & Attached Infringement Chart.	2005
Select Internet Web pages from en.wikipedia.org.	2006
Google Inc.’s Motion to Intervene in International Trade Commission Investigation No. 337-TA-882 (ITC Jul. 26, 2013).	2007
ITC Investigation No. 337-TA-882 Prehearing Conference Transcript, Aug. 6, 2013	2008
Transcript of Proceedings before the Hon. Lucy H. Koh for <i>Apple, Inc. v. Samsung Elecs. Co., Ltd.</i> , No. 12-cv-00630 (N.D. Ca. June 18, 2014), ECF No. 1926 (hereinafter “Apple v. Samsung Tr.”).	2009
Transcript of Deposition of Justin Denison (Plaintiff’s Exhibit No. 3001) for <i>Apple, Inc. v. Samsung Elecs. Co., Ltd.</i> , No. 12-cv-00630 (N.D. Ca. June 16, 2014), ECF No. 1920 (hereinafter “Denison Dep. Tr.”).	2010
Select Internet Web Pages from samsung.com	2011
Claim Charts Illustrating Infringement of U.S. Patent 6,618,593 in <i>Black Hills Media, LLC v. Samsung Elecs. Co., Ltd., et al.</i> , No. 2:13-cv-00379 (E.D. Tex.), served on August 22, 2013.	2012

**UPDATED TABLE OF EXHIBITS (CONTINUED)**

**Previously filed (continued)**

<b>Exhibit Description</b>	<b>Exhibit #</b>
Declaration of William O. Putnam.	2013
Selected portions of the Microsoft Computer Dictionary, 4 <sup>th</sup> Edition, Microsoft Press, 1999.	2014
Selected portions of PC Magazine Encyclopedia ( <a href="http://www.pcmag.com/encyclopedia">http://www.pcmag.com/encyclopedia</a> ), accessed February 18, 2015.	2015
“PointCast unveils free news service,” Rose Aguilar, CNET News, February 13, 1996, <a href="http://news.cnet.com/PointCast-unveils-free-news-service/2100-1023_3-204658.html">http://news.cnet.com/PointCast-unveils-free-news-service/2100-1023_3-204658.html</a> (accessed February 23, 2015).	2016
Transcript of Deposition of Kevin C. Almeroth, Ph.D., dated February 3, 2015.	2017

**New**

<b>Exhibit Description</b>	<b>Exhibit #</b>
Transcript of Deposition of Kevin C. Almeroth, Ph.D., dated June 16, 2015.	2018

As authorized by the Board's December 18, 2014 Scheduling Order (Paper 28), Black Hills Media, LLC ("Patent Owner") respectfully submits the following observations on the June 16, 2015 deposition of Kevin C. Almeroth, Ph.D., and requests that the Board enter this Motion for Observations Regarding Cross-Examination of Petitioner's Reply Witness, Kevin C. Almeroth, Ph.D. *Office Patent Trial Practice Guide*, 77 Fed. Reg. 48756 at 48767–68 (August 14, 2012).<sup>1</sup>

**1. Observation #1**

In Exhibit 2018, page 308, lines 1-23, Dr. Almeroth testified that "I don't think it's necessarily accurate to say that claim 1 [of the '686 Patent] requires a search **because we haven't really defined what 'search' is**. We haven't looked at the question of whether or not there are ways of accomplishing claim 1 that doesn't require **some vague and as yet defined term for what 'search' is**. I just don't think it's a reasonable way to try and characterize what claim 1 is -- [ ] --generally speaking." (Emphasis added). This testimony is relevant to ¶21 of Dr. Almeroth's second declaration (Ex. 1017), in which he objected to Patent Owner's expert's citation to a definition of the noun "search" instead of "the term 'search' as an adjective."

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<sup>1</sup> The Transcript of Deposition of Kevin C. Almeroth, Ph.D., dated June 16, 2015, is submitted herewith as Exhibit 2018. All exhibits to the deposition have already been made of record and are not filed again pursuant to 37 C.F.R. § 42.6(d).

## 2. Observation #2

In Exhibit 2018, page 328, lines 10-22, Dr. Almeroth testified that Patent Owner's expert cited to a dictionary definition of the search that "suggests that the target of the search is a particular file or the location of a file," and further that such an interpretation "might exclude every single embodiment in the '686 patent. I don't recall if the '686 patent ever has an embodiment where you're searching for a particular file." This testimony is relevant to ¶22 of Dr. Almeroth's second declaration (Ex. 1017), in which he alleges that "Mr. Putnam's interpretation of these definitions seems to imply that a particular file has to be the focus of the search. *See, e.g.*, 'search (noun)' and 'search (verb)' in Exhibit 2013 ¶ 29, suggesting that the target of the search is 'a particular file' or 'the location of a file'," and to Patent Owner's expert's testimony at ¶46 of Ex. 2013 which cites to the definition of search (noun) as "[t]he process of seeking a particular file **or specific data**" and of search (verb) as "[t]o seek **specific data within a file or data structure**..."

## 3. Observation #3

In Exhibit 2018, page 310, line 4 through page 312, line 23, Dr. Almeroth testified that "I am not sure that I had a specific term in mind other than if you just look at claim 1 and generally the terms under the broadest reasonable construction" when asked what term he was construing under the broadest reasonable

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