IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION

SUMMIT 6 LLC,	§ § § § § § §	**CIVIL ACTION NO. 7:14-cv-00014-O**
Plaintiff,		
		JURY TRIAL DEMANDED
v.		
HTC CORPORATION, HTC AMERICA, INC., LG ELECTRONICS, INC., LG ELECTRONICS USA, INC., LG ELECTRONICS MOBILECOMM USA, INC., MOTOROLA MOBILITY LLC, and TWITTER INC.,	§ § § § § § § § § § §	
Defendants.		
SUMMIT 6 LLC,	§ § § § § §	**CIVIL ACTION NO. 7:14-cv-00106-O**
Plaintiff,		**JURY TRIAL DEMANDED**
v.		
APPLE INC.	§ § § § § §	
Defendant.		

JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT

TO THE HONORABLE COURT:

In accordance with the Scheduling Order ¶ 4(d) (Dkt No. 93) and Amended

Miscellaneous Order No. 62, § 4-3, Plaintiff Summit 6 LLC ("Summit 6") and

Defendants HTC Corporation, HTC America, Inc., LG Electronics, Inc., LG Electronics

USA, Inc., LG Electronics MobileComm USA, Inc., Motorola Mobility LLC, Apple Inc.,

and Twitter Inc. (collectively "Defendants") file this Joint Claim Construction and Prehearing Statement.

I. Terms Proposed for Construction on Which the Parties Agree

The parties agree on the construction of the following claim terms:

Claim Term or Phrase and Relevant Claims	Agreed Construction
pre-processing parameters *'557: Claims 45, 60* *'482: Claims 1, 9, 12, 13, 16, 17, 18, 22, 25-27, 30, 34-38, 51* *'515: Claims 1, 7, 20-25, 39-41, 50, 52*	values directing the pre-processing
displaying a preview image of said selected digital content *'482: Claim 35*	displaying a preview image of the digital content after the digital content has been selected
displaying a thumbnail preview of said identified . . . files *'515: Claims 6, 28*	displaying a thumbnail preview of the file(s) after the file(s) have been identified
displaying thumbnail previews of . . . files *'515: Claims 51, 53*	displaying thumbnail previews of the files after the files have been identified
publishing/publication *'482: Claims 1, 9, 13, 22, 35, 36, 38, 51*	making publicly available/the act of making publicly available
third party website *'557: Claims 1, 12, 13, 28, 35, 36*	a website being operated by a party other than: (1) the user, or (2) the party which provided the operator of the website with the code used to include the media object identifier on the website
placement of . . . digital content into a specified form to place . . . digital content in a specified form *'482: Claims 1, 9, 13, 22, 35-38, 51*	modifying the digital content data to meet certain specifications
information that enables identification of	information related to a person that enables

a user	identification of that person
user identifier	
information associated with an individual	
information retrieved by said client device that enables identification of a user	
'482: Claims 13, 19, 25, 37	
'515: Claims 17, 36	
user information	information related to a person
'482: Claim 49	

II. Each Party's Proposed Claim Constructions and Supporting Evidence

A side-by-side comparison of the parties' respective proposed constructions, an identification of the party/parties proposing the construction, and an identification of the intrinsic and extrinsic evidence that they intend to rely upon, either to support their proposed construction of the claim terms or to oppose another party's proposed construction, are provided in Exhibit A. The '557, '482, and '515 patents share a largely identical written description; therefore citations made to one of the patents are intended to refer to the corresponding portions from all patents-in-suit. The parties also reserve the right to rely on evidence cited by the opposing party to support or oppose particular constructions as appropriate.

In addition to the extrinsic evidence identified in Exhibit A, the parties anticipate that they may rely also on Markman briefing and the Court's Markman Order from the previous Summit 6 case (3:11-cv-00367), as well as any potential future Federal Circuit ruling(s) of matters on appeal in the previous Summit 6 case. With respect to expert testimony, Summit 6 seeks the option of supporting its Markman briefing in this case

with the expert testimony of Dr. Mark Jones, the expert from the previous Summit 6 case. Summit 6 has made Defendants aware of Dr. Jones's prior deposition and expert testimony, as well as its desire to have the option of filing an expert declaration by Dr. Jones to oppose Defendants' indefiniteness arguments if Defendants oppose the use of his prior deposition and trial testimony. Summit 6 believes such a declaration is appropriate and permissible under Amended Miscellaneous Order No. 62, § 4-2(b). Defendants object to Summit 6's use of Dr. Jones' testimony for Markman on the grounds that Defendants here were not parties to the previous Summit 6 case, and therefore never had an opportunity to depose or cross-examine Dr. Jones on that testimony. Defendants also object on the ground that claim construction discovery will be closed (Nov. 17, 2014) before Markman briefing commences (Dec. 30, 2014), and Summit 6's proposed production of expert declarations would not take place until after the close of claim construction discovery, thereby denying Defendants the ability to depose Summit 6's expert on the subjects of his declaration testimony. With respect to Summit 6's reliance on Amended Miscellaneous Order No. 62, § 4-2(b), Defendants further object on the grounds that, on the required disclosure date (Oct. 9, 2014), Summit 6 identified volumes of testimony from Dr. Jones without reference to what testimony would be used to support what proposed construction, and Summit 6 failed to provide the description of the substance of Dr. Jones' proposed testimony that the Order requires.

III. Length of Claim Construction Hearing

Should the Court find a hearing beneficial, the parties anticipate that three hours will be sufficient with this time to be divided equally between the two sides.

IV. Witness and/or Expert Testimony

None of the parties intend to call any witnesses at the claim construction hearing.

V. Issues for the Pre-Hearing Conference

The parties do not currently have any issues that need to be taken up with the Court at a pre-hearing conference.

Dated: October 16, 2014

Respectfully submitted,

MCKOOL SMITH P.C.

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