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19 IN THE UNITED STATES DISTRICT COURT  
20 FOR THE NORTHERN DISTRICT OF CALIFORNIA

21  
22 OPENTV, INC., AND NAGRAVISION, SA

23 Plaintiffs and  
24 Counterdefendants,

25 v.

26 APPLE, INC.,

27 Defendant and  
Counterplaintiff.

CASE NO. 3:14-cv-01622-JST

**JOINT CLAIM CONSTRUCTION AND  
PREHEARING STATEMENT  
PURSUANT TO PATENT L.R. 4-2**

1 **I. Introduction**

2 Pursuant to Patent L.R. 4-3, Plaintiffs and Counterdefendants OpenTV Inc. and NagraVision,  
3 SA (“Plaintiffs”) and Defendant and Counterplaintiff Apple Inc. (“Defendant”) submit this Joint  
4 Claim Construction and Prehearing Statement with respect to Plaintiffs’ U.S. Patent Nos. 5,566,287,  
5 5,689,799, 5,884,033, 6,985,586, and 7,900,229 (collectively, “the patents-in-suit”).

6  
7 **II. Agreed Claim Constructions**

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Term	Agreed Construction
“a programming signal” (’229 patent)	“a signal containing television programming”
“Internet sites” (’033 patent)	“resources available over the Internet”
“the authorization” (’586 patent)	“at least one key or right that is necessary to decrypt the product”

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15 **III. Identification of Top Ten Terms for Construction Pursuant to Patent Local Rule 4-3(c)**

16 Pursuant to Patent Local Rule 4-3(c), the parties identify the following ten terms “whose  
17 construction will be most significant to the resolution of the case”:

18 **’799 Patent**

19 1 “a response collector component for storing the application identifier and  
20 vendor routing information, associating the application identifier with the  
21 vendor routing information, receiving the application identifier and user  
22 response information from the reception component, and transmitting the  
23 user response information to the vendor associated with the application  
24 identifier received” (799)

25 2 Whether the preambles of claims 1 and 3 are limiting in the 799 patent  
26 (799)

27 **’287 Patent**

28

1           3     “drawing request” (287)

2           4     “image update request” (287)

3           5     “requesting that respective graphic objects be redrawn if any portion of the  
4           graphic object lies within the drawing area represented by the retrieved  
5           entry” (287)

6           **'033 Patent**

7           6     “filters specifying deferred action” (033)

8           7     “filters specifying immediate action” (033)

9           **'229 Patent**

10          8     “activity [related/unrelated] to television programming” (229)

11          9     “broadcast station” (229)

12          10    “set-top box” (229)

13           The parties dispute fourteen additional claim terms, included in the Joint Claim Construction  
14   Statement chart. The ten terms above are identified in **bold**. *See* Exhibit A, attached. The Court’s  
15   Scheduling Order provides that the Court “will construe only the terms the parties identify in their  
16   Joint Claim Construction and Prehearing Statement as ‘most significant to the resolution of the case  
17   up to a maximum of 10,’” citing Patent Local Rule 4-3(c). ECF No. 59 at 3:5-7. The parties are  
18   continuing to discuss the disputed terms.

19           **A.     Statement by OpenTV**

20           OpenTV believes that the parties’ briefing should be limited to the ten terms identified under  
21   Patent Local Rule 4-3(c), absent compelling circumstances and permission from the Court. OpenTV  
22   understands that Apple intends to submit claim construction briefing on the fourteen additional  
23   disputed terms in addition to the ten terms jointly identified by the parties as “most significant to the  
24   resolution of the case.” OpenTV may seek clarification from the Court whether leave is required for  
25   the parties to submit briefing on terms in excess of the identified ten terms, and if so under what  
26   conditions.

27           **B.     Statement by Apple**

1 Apple believes construction of additional terms beyond the ten terms identified above will be  
2 necessary, particularly given that disputes for most remaining terms center around means-plus-  
3 function treatment or indefiniteness issues that are resolved through claim construction. Apple  
4 believes the parties should address all disputed terms in claim construction briefing, as parties have  
5 done in past cases, such as *Symantec Corp. v. Acronis, Inc.*, No. 3:12-cv-05331-JST and *Emblaze*  
6 *Ltd. v. Microsoft Corp.*, 3:12-cv-5422-JST. Absent other guidance from the Court, Apple intends to  
7 brief all disputed terms, and Apple will be prepared to address disputed terms at the Court's claim  
8 construction hearing or at such other time as the Court directs. Apple will continue to discuss with  
9 OpenTV in an attempt to reach agreement regarding briefing.

#### 11 **IV. Proposed Constructions of Disputed Terms**

12 The Joint Claim Construction Statement chart attached as Exhibit A presents the parties'  
13 proposed constructions for the ten terms identified by the parties under Patent Local Rule 4-3(c) and  
14 the remaining fourteen disputed terms with intrinsic and extrinsic evidence supporting such  
15 constructions. Each party reserves the right to use evidence identified or relied upon by any other  
16 party and to use any portion of documents identified in the attached charts, not just those portions  
17 expressly cited.

#### 19 **V. Length of Claim Construction Hearing**

20 The Court has set the Claim Construction Hearing for March 23, 2015, starting at 2:00 pm.  
21 The parties anticipate the hearing will take the full 2 and a half hours the Court has allotted for claim  
22 construction. *See* ECF No. 59. The parties will divide this time evenly, with 1.25 hours for each side.

#### 24 **VI. Anticipated Witnesses at the Claim Construction Hearing**

25 The parties do not anticipate calling witnesses at the Claim Construction Hearing.

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27 By her signature below, counsel for Plaintiffs attests that counsel for Defendants concur in  
28 the filing of this document.

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