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

22 OPENTV, INC., NAGRAVISION S.A., and
23 NAGRA FRANCE S.A.S.

24 Plaintiffs,

25 v.

26 APPLE INC.,

27 Defendant.

CASE NO. 5:15-cv-02008-EJD (NMC)

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

1 **I. Introduction**

2 Pursuant to Patent Local Rule 4-3, Plaintiffs OpenTV, Inc., Nagravision S.A., and Nagra
3 France S.A.S. (“Plaintiffs”) and Apple Inc. (“Defendant”) submit this Joint Claim Construction and
4 Prehearing Statement with respect to Plaintiffs’ U.S. Patent Nos. 6,233,736 (Exhibit B), 7,055,169
5 (Exhibit C), and 7,725,740 (Exhibit D) (collectively, the “Patents-in-Suit”).

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7 **II. Patent L.R. 4-3(a): Agreed Claim Constructions**

8 ’736 Patent

Term	Agreed Construction
Preambles of claims 1, 8, and 9	The parties agree that the preambles of claims 1, 8, and 9 are limiting.
“means for displaying an image signal detected from said received information signal”	<p><u>Governed by Section 112(6)</u></p> <p><u>Function:</u> “displaying an image signal detected from said received information signal”</p> <p><u>Structure:</u> “a television, computer monitor, or other display device, and equivalents thereof”</p>

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20 ’169 Patent

Term	Agreed Construction
“interactive television system”	“system for providing interactive content as well as audio, video, and/or graphic presentations to a user”

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26 ’740 Patent

Term	Agreed Construction

1 2	“management center”	“a computer system for providing encrypted data and keys to a remote device”
3	“central unit”	“central processing unit”
4 5 6 7	“eliminating the secret information from the first portion of the second memory zone”	“rendering inaccessible (e.g., by deleting, erasing, and/or overwriting) the secret information in the first portion of the second memory zone”

9 **III. Patent L.R. 4-3(b): Each Party’s Proposed Construction of Each Disputed Term**

10 Attached as Exhibit A is a Joint Claim Construction Statement Chart that presents each
11 party’s proposed construction for each disputed term, together with an identification of all
12 supporting intrinsic and extrinsic evidence. Each party reserves the right to use evidence identified
13 or relied upon by any other party and to use any portion of documents identified in the attached
14 charts, not just those portions expressly cited.

16 **IV. Patent L.R. 4-3(c): Identification of Top Ten Terms for Construction**

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

19 '736 Patent

20 1. “means for extracting an address associated with an online information source from an
21 information signal embedded in said electronic signal, and for automatically establishing, in
22 response to a user initiated command, a direct link with the online information source”

23 2. “indicating”

24 3. “automatic and direct access” / “automatically and directly electronically accessing”

25 Pursuant to Patent Local Rule 4-3(c), Apple submits that the terms “means for extracting an
26 address associated with an online information source from an information signal embedded in said
27 electronic signal, and for automatically establishing, in response to a user initiated command, a direct

1 electronically accessing” for the ’736 Patent will be claim dispositive for each asserted claim reciting any
2 of these terms and any claim that depends therefrom. OpenTV does not agree that the construction of
3 these terms will be necessarily dispositive.

4 ’169 Patent

5 4. “directive” / “directives, wherein said directives are indicative of an audio, video and/or
6 graphic presentation which requires a set of resources” / “directives which are indicative of an audio,
7 video and/or graphic presentation requiring a set of resources” / “directives which are indicative of
8 an audio, video and/or graphic presentation which requires a set of resources”

9 5. “prerequisite directive”¹

10 6. “subset of said set of resources”

11 7. “wherein said prohibiting is in further response to detecting a corresponding time for
12 expiration has not yet expired, and wherein said method further comprises allowing the presenting of
13 said presentation in response to detecting said time for expiration has expired”

14 8. “a processing unit coupled to said receiver, wherein said processing unit is configured to:
15 determine whether said one or more directives includes a prerequisite directive which
16 indicates that acquisition of a subset of said set of resources is a prerequisite for initiating the
17 presentation;

18 initiate said presentation, in response to determining the one or more directives do not
19 include said prerequisite directive; and

20 prohibit initiation of said presentation until said subset of resources are acquired, in response
21 to determining the one or more directives include said prerequisite directive.”

22 9. Whether the preamble of claim 22 is limiting.

23 Pursuant to Patent Local Rule 4-3(c), Apple submits that the terms “prerequisite directive...,”
24 “wherein said prohibiting is in further response to...,” “a processing unit...,” and whether the preamble

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27 ¹ Apple proposes that the appropriate term to construe is the broader term, “prerequisite
28 directive which indicates that [acquisition/acquisition] of a subset of said set of resources is a
29 prerequisite for [initiating] the presentation”

1 of claim 22 is limiting will be claim dispositive for each asserted claim of the '169 Patent reciting
2 the terms and any claim that depends therefrom. OpenTV does not agree that the construction of these
3 terms will be necessarily dispositive.

4 '740 Patent

5 10. "imprint of data"

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7 The parties dispute additional claim terms, included in the Joint Claim Construction Statement
8 Chart. *See* Exhibit A, attached. The parties are continuing to discuss the disputed terms.

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10 **V. Proposed Constructions of Disputed Terms**

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

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17 **VI. Patent L.R. 4-3(d): Length of Claim Construction Hearing**

18 The Court has set the Claim Construction Hearing and Tutorial for May 12, 2016, starting at 1:30
19 p.m. The parties anticipate the hearing will take the full three hours the Court has allotted for the tutorial
20 and claim construction hearing. The parties will divide this time evenly, with 30 minutes for each side for
21 the tutorial and one hour for each side for the claim construction hearing.

22
23 **VII. Patent L.R. 4-3(e): Anticipated Witnesses at the Claim Construction Hearing**

24 To the extent the parties intend to call experts to testify in support of the proposed constructions
25 at the claim construction hearing, the parties will seek leave in accordance with this Court's Standing
26 Order for Patent Cases, § IV.D. Consistent with Patent L.R. 4-3(e), the parties identify the proposed
27 testimony of possible witnesses below.

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