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 14 FIRSTFACE CO., LTD.

15 **UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

16 FIRSTFACE CO., LTD.,

17 Plaintiff,

18 v.

19 SAMSUNG ELECTRONICS CO., LTD. and
 20 SAMSUNG ELECTRONICS AMERICA, INC.,

21 Defendants.

CASE NO. 3:18-cv-02243-JD

**JOINT CLAIM CONSTRUCTION AND
 PREHEARING STATEMENT**

Judge: Hon. James Donato

22 FIRSTFACE CO., LTD.,

23 Plaintiff,

24 v.

25 APPLE INC.,

26 Defendant.

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

1 Pursuant to Patent Local Rule 4-3, Plaintiff Firstface Co., Ltd. (“Firstface”), Defendants Samsung
2 Electronics Co., Ltd. and Samsung Electronics America, Inc. (collectively, “Samsung”), and Defendant
3 Apple Inc. (“Apple”) file this Joint Claim Construction and Prehearing Statement for U.S. Patent No.
4 8,831,557, U.S. Patent No. 9,633,373, and U.S. Patent No. 9,779,419.¹

5 **I. Construction of Terms on Which the Parties Agree [Patent L.R. 4-3(a)]**

6 The parties have conferred but have not agreed on the constructions for any terms. The parties
7 will notify the Court if they reach any agreement(s) after the date of this filing.

8 **II. Each Party’s Proposed Construction of Each Disputed Term [Patent L.R. 4-3(b)]**

9 Exhibit A to this Joint Statement provides an identification of the terms, phrases, and clauses of
10 the ’557 patent, ’373 patent, and ’419 patent upon which the parties do not agree, each party’s proposed
11 constructions, the identification of intrinsic evidence that supports each party’s proposed constructions,
12 and the identification of any extrinsic evidence known to each party upon which it intends to rely, either
13 to support its proposed construction(s), or to oppose any other party’s proposed construction(s),
14 including, but not limited to, as permitted by law, dictionary definitions, citations to learned treatises and
15 prior art, and testimony of percipient and expert witnesses, in accordance with Patent L.R. 4-3(b). To
16 the extent a party cites intrinsic or extrinsic evidence in support of its proposed construction for a
17 disputed claim term, the other parties may also rely on the same intrinsic or extrinsic evidence for that
18 disputed claim term.

19 **III. Most Significant and Dispositive Terms [Patent L.R. 4-3(c)]**

20 In accordance with the Court’s Standing Order for Claim Construction in Patent Cases Before
21 Judge James Donato, the parties have already narrowed the number of disputed terms, phrases, and
22 clauses to less than ten. The parties propose briefing nine groups of disputed terms, some of which are
23 unique to Firstface and Apple given the two additional patents asserted against Apple. The parties
24 believe that all of these terms are significant to resolving the cases against Apple and Samsung.

25
26 _____
27 ¹ The ’557 patent is asserted against Apple and Samsung. The ’373 patent and ’419 patent are asserted
28 only against Apple. The ’557 patent, ’373 patent, and ’419 patent are attached as Exhibits B, C, and D,
29 respectively.

1 **IV. Claim Construction Briefing**

2 The parties understand that the Court's Standing Order for Claim Construction allows them to
3 file 20-page opening and opposition briefs and a 10-page reply brief in each case. In order to streamline
4 the briefing and facilitate the Court's review, the parties propose a slight modification to the Court's
5 order. Instead of submitting 100 total pages of briefing, the parties propose submitting a total of 75
6 pages of joint briefing (30-page opening and opposition briefs and a 15-page reply brief). The parties
7 propose that Firstface file a single 30-page opening brief and a single 15-page reply brief addressing all
8 claim terms, and Apple and Samsung jointly file a 30-page opposition brief in which they jointly address
9 any terms disputed in both cases and separately address any additional disputed terms unique to that
10 defendant. The parties are filing a stipulated request to joint briefing.

11 **V. Length of Time for Claim Construction Hearing [Patent L.R. 4-3(d)]**

12 The tutorial is currently scheduled for April 18, 2019, at 11 a.m. The parties anticipate requiring
13 no more than 45 minutes per side, and no more than 90 minutes total.

14 The claim construction hearing is currently scheduled for May 2, 2019, at 11 a.m. The parties
15 anticipate requiring no more than 90 minutes per side, and three hours total.

16 **VI. Witnesses To Be Called At Claim Construction Hearing [Patent L.R. 4-3(e)]**

17 Firstface does not expect to call any live witnesses during the claim construction hearing.
18 Firstface may rely on declarations or deposition testimony from expert witnesses in its claim
19 construction briefing. In particular, Mr. Nigel Jones may offer declaration or deposition testimony to
20 explain the meaning of claim terms in the context of the subject matter disclosed in the patents-in-suit,
21 describe the state of the technology related to the claimed inventions of the patents-in-suit, and explain
22 how a person of ordinary skill would interpret claim terms at the time of the invention. Mr. Jones may
23 also offer declaration or deposition testimony to rebut any of Defendants' claim constructions.

24 Apple does not expect to call any live witnesses during the claim construction hearing. Apple
25 may rely on declarations or deposition testimony from Jason Nieh or George Edwards in its claim
26 construction briefing. In particular, Mr. Nieh or Mr. Edwards may offer declaration or deposition
27 testimony to explain the meaning of claim terms in the context of the subject matter disclosed in the
28

1 patents-in-suit, describe the state of the technology related to the claimed inventions of the patents-in-
2 suit, and explain how a person of ordinary skill would interpret claim terms at the time of the invention.

3 Samsung does not expect to call any live witnesses during the claim construction hearing.

4 Samsung may rely on declarations or deposition testimony from Jason Nieh in its claim construction
5 briefing. In particular, Dr. Nieh may offer declaration or deposition testimony to explain the meaning of
6 claim terms in the context of the subject matter disclosed in the patents-in-suit, describe the state of the
7 technology related to the claimed inventions of the patents-in-suit, and explain how a person of ordinary
8 skill would interpret claim terms at the time of the invention.

9 **VII. Requested Factual Findings [Patent L.R. 4-3(f)]**

10 The parties do not request that the Court make any factual findings related to claim construction.

11 Dated: January 11, 2019

Respectfully submitted,

12 /s/ Edward R. Nelson III

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1 Dated: January 11, 2019

Respectfully submitted,

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16 Dated: January 11, 2019

Respectfully submitted,

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18 NATHAN B. SABRI

19 *Attorneys for Defendants APPLE INC.*

20 **ATTESTATION OF CONCURRENCE IN FILING**

21 Pursuant to Civil Local Rule 5-1(i)(3), Edward R. Nelson III attests that concurrence in the filing
22 of this document has been obtained from each of the signatories listed above.

23 /s/ Edward R. Nelson III
24 Edward R. Nelson III

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