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22 IN THE UNITED STATES DISTRICT COURT
23 FOR THE CENTRAL DISTRICT OF CALIFORNIA

24 BLACKBERRY LIMITED, a)
25 Canadian corporation,)

26 Plaintiffs,)

27 v.)

28 FACEBOOK, INC., a Delaware)
corporation, WHATSAPP INC., a)
29 Delaware corporation, and)
30 INSTAGRAM, INC., a Delaware)
corporation, and INSTAGRAM, LLC,)
31 a Delaware limited liability company)

32 Defendants,

33 SNAP INC., a Delaware corporation

34 Defendant.

CASE NO. 2:18-cv-01844 GW(KSx)
CASE NO. 2:18-cv-02693 GW(KSx)

**JOINT CLAIM
CONSTRUCTION AND
PREHEARING STATEMENT**

1 Pursuant to the Joint Status Hearing of January 10, 2019 (*See* Hearing Tr. at
 2 4:25-6:6, January 10, 2019), the Court’s Order (Dkt. 107), and S.P.R. 3.4, Plaintiff
 3 BlackBerry Limited (“BlackBerry”) and Defendants Facebook, Inc. (“Facebook”),
 4 WhatsApp, Inc. (“WhatsApp”), Instagram, LLC (“Instagram”), and Snap Inc.
 5 (“Snap”) (collectively, “Defendants”) hereby submit the Joint Claim Construction
 6 and Prehearing Statement for U.S. Patent Nos. 7,372,961 (“’961 Patent”), 8,279,173
 7 (“’173 Patent”), 8,209,634 (“’634 Patent”), 8,301,713 (“’713 Patent”), 8,429,236
 8 (“’236 Patent”), 8,677,250 (“’250 Patent”), and 9,349,120 (“’120 Patent”),
 9 8,301,713 (“’713 Patent”), 8,296,351 (“’351 Patent”), 8,676,929 (“’929 Patent”),
 10 8,825,084 (“’084 Patent), and 8,326,327 (“’327 Patent) (collectively, the “patents-
 11 in-suit” or the “Asserted Patents”).¹

12 **I. AGREED CONSTRUCTIONS (S.P.R. 3.4.1)**

13 The Parties stipulate to the constructions for the following terms:

| Claim Term | Patent | Agreed Construction |
|---------------------------------------|------------|---|
| “dynamic advertising information” | ’351, ’929 | “advertising information that regularly changes” |
| “static advertising information” | ’351, ’929 | “advertising information that relates to the identity of an advertiser or that does not often change” |
| “default advertising information” | ’351, ’929 | “advertising information that changes rarely” |
| “channel” / “memory location channel” | ’351, ’929 | “memory location” |
| “resumption message” | ’713 | “message after a period of interruption” |

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¹ The Asserted Patents may be categorized as Facebook-only patents (the ’120, ’250, ’173, ’961, and ’236 patents), Facebook and Snap patents (the ’713, ’351, ’929, and ’634 patents), and Snap-only patents (the ’327 and ’084 patents).

1 BlackBerry and the Facebook Defendants stipulate to the construction for the
2 following term from the Facebook only patents:

| Claim Term | Patent | Agreed Construction |
|-------------------------|--------|--|
| “recipient application” | ’236 | “software, hardware, component, or collection of components that processes status updates from a mobile communications device and generates an output based on the status updates” |

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9 BlackBerry and Snap stipulate to the construction for the following term from
10 the Snap only patents:

| Claim Term | Patent | Agreed Construction |
|---------------|------------|--|
| “action spot” | ’327, ’084 | “location or event where at least one activity is occurring relative to the current location of another mobile device” |

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15 **II. THE PARTIES’ PROPOSED CONSTRUCTIONS (S.P.R. 3.4.2)**

16 Appendix A (Terms in Dispute) sets forth proposed constructions of each
17 disputed term, together with an identification of all references from the specification
18 or prosecution history that support that construction, and an identification of any
19 extrinsic evidence known to the party on which it intends to rely either to support or
20 its proposed construction or to oppose any proposed construction, including, but not
21 limited to, as permitted by law, dictionary definitions, citations to learned treatises
22 and prior art, and testimony of percipient and expert witnesses. Terms in Appendix
23 A are not ranked in any fashion. Each disputed term is accompanied by each
24 parties’ statement as to the impact of the term.
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1 **III. TOP TEN TERMS FOR CONSTRUCTION (S.P.R. 3.4.3)**

2 The parties jointly identify the following ten (10) claim terms as the most
 3 significant at this time to resolution of the case. (Tr. at 4:25-5:15; S.P.R. 3.4.3.)²
 4 Terms are not ranked in any fashion.

| Claim Term | Patent | BlackBerry's Construction | Defendants' Construction |
|----------------------------------|--------|--|--|
| "wireless communication device" | '634 | "small-screen wireless mobile device" | No construction required; in the alternative, "device that can communicate without wires" |
| "icon" | '634 | "picture or symbol representing a computer application or function" | "graphical image" |
| "messaging correspondent" | '634 | "distinct sender of an electronic message to the user of the wireless communication device" | "a person from whom messages may be received" |
| "predetermined duration of time" | '713 | "duration of time determined in advance" | "a length of time set in advance before the first messaging communication is sent" |
| "proxy content server" | '351 | "server that aggregates information from an information source for distribution to a device" | "a computer that receives information over a computer network and provides it to another device" |

27 ² As noted below, the parties have different interpretations of the Court's request
 28 for ranked lists.

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| <p>“meta tag for one or more advertisements to be displayed with the content information”</p> | <p>’929</p> | <p>“<i>embedded control sequence inserted to indicate when advertising should be inserted for one or more advertisements to be displayed with the content information</i>”³</p> | <p>“<i>meta tag for one or more advertisements to be displayed at the same time as the content information</i>”</p> <p>“Meta tag” does not need to be construed and should be given its plain and ordinary meaning. To the extent it is construed as BlackBerry contends, a “meta tag” is “<i>one or more characters containing information about a file, record type or other structure, where the characters and information cannot be viewed by a user</i>”</p> |
| <p>“content information”</p> | <p>’351, ’929</p> | <p>Plain and ordinary meaning; alternatively “<i>information other than advertising information</i>”</p> | <p>“<i>Information, other than advertising information and meta tags, which is displayed for viewing by the user</i>”</p> |
| <p>“reducing mod q”</p> | <p>’961</p> | <p>Plain and ordinary meaning</p> | <p>“<i>computing the remainder of dividing a value by q</i>”</p> |
| <p>“determine / determining at least one action spot within a predetermined distance from the current location of the mobile device”</p> | <p>’084, ’327</p> | <p>Plain and ordinary meaning</p> | <p>“<i>Determine / determining each action spot within a specific distance from the current location of the [first] mobile device, the specific distance being set prior to this determining step</i>”</p> |

³ BlackBerry contends that the constituent term “meta tag” be construed as “embedded control sequence inserted to indicate when advertising should be inserted,” and the remainder of the phrase be given its plain and ordinary meaning.



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