

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP
2 James R. Asperger (Bar No. 83188)
3 jamesasperger@quinnemanuel.com
4 865 S. Figueroa St., 10th Floor
5 Los Angeles, CA 90017
6 Telephone: (213) 443-3000
7 Facsimile: (213) 443-3100

8 Kevin P.B. Johnson (Bar No. 177129)
9 kevinjohnson@quinnemanuel.com
10 555 Twin Dolphin Drive, 5th Floor
11 Redwood Shores, CA 94065
12 Telephone: (650) 801-5000
13 Facsimile: (650) 801-5100

14 BLACKBERRY CORPORATION
15 Edward R. McGah, Jr (SBN 97719)
16 Vice President, Deputy General Counsel – Litigation
17 41 Ticknor Place
18 Laguna Niguel, California 92677
19 Telephone: (+1) 650-581-4750

20 Attorneys for Plaintiff,
21 BlackBerry Limited

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

24 BLACKBERRY LIMITED, a)
25 Canadian corporation,)
26)
27 Plaintiffs,)

28 v.)

29 FACEBOOK, INC., a Delaware)
30 corporation, WHATSAPP INC., a)
31 Delaware corporation, and)
32 INSTAGRAM, INC., a Delaware)
33 corporation, and INSTAGRAM,)
34 LLC, a Delaware limited liability)
35 company)

36 Defendants,)

37 SNAP INC., a Delaware corporation)

38 Defendant.)

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

**JOINT STATEMENT
REGARDING DISPUTED
CLAIM TERMS**

Case Nos. 2:18-cv-02693 GW(KSx)
2:18-cv-01844 GW(KSx)

1 Pursuant to the Court’s guidance at the March 21, 2019 claim construction
 2 tutorial hearing, Plaintiff BlackBerry Limited (“BlackBerry”) and Defendants
 3 Facebook, Inc. (“Facebook”), WhatsApp, Inc. (“WhatsApp”), Instagram, LLC
 4 (“Instagram”), and Snap Inc. (“Snap”) (collectively, “Defendants”) have met and
 5 conferred in an effort to narrow the claim construction issues before the Court, and
 6 hereby submit the following Joint Statement Regarding Disputed Claim Terms.

7 **ADDITIONAL AGREED-UPON CONSTRUCTIONS**

8 BlackBerry, Facebook, WhatsApp, and Instagram have agreed upon the
 9 following construction for the only term in dispute for U.S. Patent 8,429,236 (“236
 10 Patent”):

Claim Term	Stipulated Construction
“message transmission mode”	Plain and ordinary meaning

14 BlackBerry and Defendants have agreed upon the following construction for
 15 one of the terms in dispute for U.S. Patent 8,209,634 (“634 Patent”):

Claim Term	Stipulated Construction
“icon”	Plain and ordinary meaning.

19 Finally, BlackBerry and Defendants have narrowed their dispute with regards
 20 to the “proxy content server” term of U.S. Patent 8,296,351 (“351 Patent”). The
 21 parties’ current competing constructions are set forth below:
 22

Claim Term	BlackBerry’s Proposed Construction	Defendants’ Proposed Construction
“proxy content server”	<i>“server that aggregates information from an information source for distribution to a device”</i>	<i>“a server that receives information over a computer network and provides it to another device”</i>

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ADDITIONAL STATEMENT BY PLAINTIFF¹

In an effort to further narrow the disputes between the parties, BlackBerry proposed the following compromise construction for the “predetermined duration of time” term of U.S. Patent 8,301,713 (“’713 Patent”), the “content information” term of the ’351 Patent and 8,676,929 (“’929 Patent”), and the “activity level” term of U.S. Patent 8,825,084 (“’084 Patent) and U.S. Patent 8,326,327 (“’327 Patent). Although these constructions were not accepted by Defendants, BlackBerry proposes them here for the Court’s consideration:

Claim Term (’713 Patent)	BlackBerry’s Proposed Compromise
“predetermined duration of time”	<i>“a duration of time determined based on computer programming that is implemented prior to the first messaging communication”</i>
Claim Term (’351 and ’929 Patents)	BlackBerry’s Proposed Compromise
“content information”	Plain and ordinary meaning, alternatively <i>“information other than advertising information and meta tags”</i>
Claim Term (’084 and ’327 Patents)	BlackBerry’s Proposed Compromise
“activity level”	<i>“level of the actions taken by one or more mobile devices”</i>

¹ Plaintiff reserves the right to object to the alternative constructions offered by Defendants and will be prepared to address them at the *Markman* hearing, but are also prepared to submit supplemental briefing if the Court so desires.

ADDITIONAL STATEMENT BY DEFENDANTS²

In an effort to further narrow the disputes between the parties, Defendants proposed the following compromise construction for the “messaging correspondent” term of U.S. Patent 8,209,634 (“’634 Patent”) and the “content information” term of the ’351 Patent and ’929 Patent. Although these constructions were not accepted by BlackBerry, Defendants propose them here for the Court’s consideration:

Claim Term (’634 Patent)	Defendants’ Proposed Compromise
“messaging correspondent”	<i>“distinct sender associated with an electronic messaging account”</i>

Claim Term (’351 and ’929 Patents)	Defendants’ Proposed Compromise
“content information”	<i>“Information, other than advertising information and meta tags, which can be displayed for viewing by the user”</i>

The Facebook Defendants also proposed the following compromise construction for the “notification” term of U.S. Patent 9,349,120 (“’120 Patent”). Although this construction was not accepted by BlackBerry, the Facebook Defendants propose it here for the Court’s consideration:

Claim Term (’120 Patent)	Facebook’s Proposed Compromise
“notification”	<i>“An indication providing notice that an electronic message has been received. The diminished appearance of a silenced new incoming electronic</i>

² Defendants reserve the right to object to the alternative constructions offered by Plaintiffs and will be prepared to address them at the *Markman* hearing, but are also prepared to submit supplemental briefing if the Court so desires.

	<i>message in an inbox is not a notification.</i>
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Snap also proposed the following compromise construction for the “activity level” term of U.S. Patent 8,825,084 (“’084 Patent) and U.S. Patent 8,326,327 (“’327 Patent). Although this construction was not accepted by BlackBerry, Snap proposes it here for the Court’s consideration:

Claim Term (’084 and ’327 Patents)	Snap’s Proposed Compromise
“activity level”	<i>“[a] number of documenting actions by one or more [other / second] mobile devices”</i>

Snap will provide Blackberry with a further proposal regarding the term “meta tag for one or more advertisements to be displayed with the content information” term of ’929 Patent and anticipates providing the Court with an additional status update regarding the term by March 27, 2019.

SUMMARY OF REMAINING DISPUTED TERMS

Based on the agreements and offered compromises, the parties jointly identify the following chart summarizing the updated proposed constructions for disputed terms. (S.P.R. 3.5.1.) Terms are not ranked in any fashion.

Claim Term	Patent	BlackBerry’s Construction	Defendants’ Construction	Court’s Construction
“wireless communication device”	’634	“small-screen wireless mobile device”	No construction required; in the alternative, “device that can communicate without wires”	
“messaging correspondent”	’634	“distinct sender of an electronic message to the user of the wireless communication device”	“distinct sender associated with an electronic messaging account”	

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