

1 Edward R. Nelson III (*Admitted Pro Hac Vice*)
 Texas Bar No. 00797142
 2 Christopher G. Granaghan (*Admitted Pro Hac Vice*)
 Texas Bar No. 24078585
 3 ed@nbafirm.com
 chris@nbafirm.com
 4 NELSON BUMGARDNER ALBRITTON P.C.
 3131 West Seventh Street, Suite 300
 5 Fort Worth, Texas 76107
 Telephone: (817) 377-9111
 6 Facsimile: (817) 377-3485

7 Christopher D. Banys (SBN 230038)
 Richard C. Lin (SBN 209233)
 8 Jennifer L. Gilbert (SBN 255820)
 cdb@banyspc.com
 9 rcl@banyspc.com
 jlg@banyspc.com
 10 BANYS, P.C.
 1030 Duane Avenue
 11 Santa Clara, CA 95054
 Telephone: (650) 308-8505
 12 Facsimile: (650) 353-2202

13 Attorneys for Plaintiff
 14 FIRSTFACE CO., LTD.

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

<p>16 FIRSTFACE CO., LTD., 17 Plaintiff, 18 v. 19 SAMSUNG ELECTRONICS CO., LTD. and 20 SAMSUNG ELECTRONICS AMERICA, INC., 21 Defendants.</p>	<p>CASE NO. 3:18-cv-02243-JD JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT Judge: Hon. James Donato</p>
---	---

<p>22 FIRSTFACE CO., LTD., 23 Plaintiff, 24 v. 25 APPLE INC., 26 Defendant.</p>	<p>CASE NO. 3:18-cv-02245-JD</p>
---	----------------------------------

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

13 Edward R. Nelson III (*Admitted Pro Hac Vice*)
14 Texas Bar No. 00797142
15 Christopher G. Granaghan (*Admitted Pro Hac Vice*)
16 Texas Bar No. 24078585
17 ed@nbafirm.com
18 chris@nbafirm.com
19 NELSON BUMGARDNER ALBRITTON P.C.
20 3131 West Seventh Street, Suite 300
21 Fort Worth, Texas 76107
22 Telephone: (817) 377-9111
23 Facsimile: (817) 377-3485

24 Christopher D. Banys (SBN 230038)
25 Richard C. Lin (SBN 209233)
26 Jennifer L. Gilbert (SBN 255820)
27 cdb@banyspc.com
28 rcl@banyspc.com
29 jlg@banyspc.com
30 BANYS, P.C.
1030 Duane Avenue
Santa Clara, CA 95054
Telephone: (650) 308-8505
Facsimile: (650) 353-2202

Attorneys for Plaintiff FIRSTFACE CO., LTD.

1 Dated: January 11, 2019

Respectfully submitted,

2 By: /s/ Aaron Wainscoat
3 MARK D. FOWLER
4 AARON WAINSCOAT
5 CLAYTON THOMPSON
6 ERIK R. FUEHRER
7 JONATHAN HICKS
8 **DLA PIPER LLP (US)**
9 2000 University Avenue
10 East Palo Alto, CA 94303-2214
11 Telephone: 650.833.2000
12 Facsimile: 650.833.2001

*Attorneys for Defendants SAMSUNG
ELECTRONICS CO., LTD and SAMSUNG
ELECTRONICS AMERICA, INC.*

10 Dated: January 11, 2019

Respectfully submitted,

MORRISON & FOERSTER LLP

13 By: /s/ Nathan B. Sabri
14 NATHAN B. SABRI

Attorneys for Defendants APPLE INC.

16 **ATTESTATION OF CONCURRENCE IN FILING**

17 Pursuant to Civil Local Rule 5-1(i)(3), Edward R. Nelson III attests that concurrence in the filing
18 of this document has been obtained from each of the signatories listed above.
19

20 /s/ Edward R. Nelson III
21 Edward R. Nelson III
22
23
24
25
26
27
28

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.