IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

FINTIV, INC.,	§	
	§	**Civil Action No.: 6:18-CV-372-ADA**
	§	
Plaintiff,	§	
	§	**JURY TRIAL DEMANDED**
v.	§	
	§	
APPLE INC.,	§	
	§	
Defendant.	§	

PLAINTIFF FINTIV, INC.'S RESPONSIVE CLAIM CONSTRUCTION BRIEF

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I. INTRODUCTION

Plaintiff Fintiv, Inc. ("Fintiv") submits this Responsive Claim Construction Brief in support of Fintiv's proposed claim construction of the terms and phrases identified for construction from the claims of U.S. Patent No. 8,843,125 ("the '125 Patent" or "Patent-in-Suit") and in response to Defendant Apple Inc.'s ("Apple") Opening Claim Construction Brief.

Despite Apple's lengthy arguments, the '125 Patent's claims are clear, unambiguous, and can be readily understood by a person of ordinary skill in the art. Apple seeks to rewrite the claims without showing that the patentee acted as his own lexicographer or disclaimed claim scope. Accordingly, no special construction need to be given to these terms, and they should be afforded their plain and ordinary meaning.

In its Opening Brief (D.I. 71), Apple asks the Court to ignore the plain and ordinary meaning of the disputed claim terms and limit those terms based on selective portions of the intrinsic record. Apple does this in a transparent attempt to manufacture a non-infringement argument rather than to clarify ambiguous claim terms as intended by *Markman*. The Court should not re-write the claims to advance Apple's non-infringement arguments.

Apple also improperly asks the Court to substitute a layperson's perspective for that of a person of ordinary skill in the art to construe the claims in contravention of well-established Federal Circuit law. The constructions Apple proposes, however, would not assist the jury, and would result in jury confusion.

For these reasons and as set forth more fully below, this Court should reject Apple's proposed constructions and adopt those of Fintiv.

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