UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

CPC PATENT TECHNOLOGIES PTY LTD.,	
Plaintiff,	Case No. 6:21-cv-00165-ADA
v.	JURY TRIAL DEMANDED
APPLE, INC.,	
Defendant.	

JOINT CLAIM CONSTRUCTION STATEMENT

Pursuant to the scheduling order in the above-captioned case, Plaintiff CPC Patent Technologies Pty Ltd. and Defendant Apple Inc. submit this Joint Claim Construction Statement. The hearing is scheduled by Zoom for February 10, 2022, at 3:00 PM. The asserted patents and claims are:

- U.S. Patent No. 8,620,039 ("'039 Patent") – Claims 1, 13, and 19

- U.S. Patent No. 9,269,208 ("'208 Patent") – Claims 1, 2, 4, 9, 10, 11, and 13

- U.S. Patent No. 9,665,705 ("'705 Patent") – Claims 1, 2, 4, 6, 9, 10, 11, 12, 14–17.

The parties' agreed and disputed claim constructions are below.

I.   Agreed Constructions

Term	Claims	Agreed Construction	Party Proposed
"dependent upon"[1]	'039 Patent, Cls. 1, 13, 19	plain and ordinary meaning, defined as "contingent on or determined by"	*CPC
"biometric signature"[2]	'039 Patent, Cls. 1, 13, 19	plain and ordinary meaning	**Apple
"determining"[3]	'208 Patent Cls. 1, 9; '705 Patent Cl. 10	plain and ordinary meaning, defined as "to establish or ascertain definitely, as after consideration, investigation, or calculation"	*CPC
"series"	'208 Patent Cls. 1, 9, 10; '705 Patent Cls. 1, 10, 11, 14, 15, 16, 17	plain and ordinary meaning, defined as "a number of things or events of the same class coming one after the other in spatial or temporal succession"	*CPC

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[1] In the HMD case, CPC and HMD agreed to a plain and ordinary meaning construction without any qualifier for this term. 21-cv-00166-ADA (ECF Docket No. 37).

[2] The construction of this term is, however, disputed in the context of the '705 Patent and '208 Patent.

[3] In the HMD case, CPC and HMD agreed to a plain and ordinary meaning construction without any qualifier for this term. 21-cv-00166-ADA (ECF Docket No. 37).

Term	Claims	Agreed Construction	Party Proposed
"instruction" / "instructions"	'208 Patent, Cls. 1, 9, 10; '705 Patent, Cls. 1, 10, 11, 14, 15, 16, 17	plain and ordinary meaning, defined as "a command, operation, or order given to a computer processor by a computer program"	**Apple
"database"	'208 Patent, Cls. 1, 2, 9, 10, 11; '705 Patent, Cls. 1, 2, 4, 10, 11, 12, 14, 15, 16, 17	"organized structure of data"	**Apple
"conditional access"	'208 Patent, Cls. 1, 10; '705 Patent, Cls. 1, 11, 14, 15, 17	"access based on accessibility attribute"[4]	**Apple
"means for determining if the defined memory location is unoccupied"	'039 Patent Cl. 13	<u>Function:</u> determining if the defined memory location is unoccupied <u>Structure:</u> processor unit 105 running software process(es) 206	**Apple This term was originally disputed, however, CPC agreed to adopt the structure proposed by Apple during briefing. ECF Docket No. 49 at 8.
"biometric signal"	'208 Patent, Cls. 1, 2, 9, 10; '705 Patent, Cls. 1, 2, 10, 11, 12, 14, 15, 16, 17	"physical attribute of the user (i.e., fingerprint, facial pattern, iris, retina, voice, etc.)"	**Apple This term was originally disputed, however, CPC agreed to adopt the structure proposed by Apple during briefing. ECF Docket No. 49 at 10.

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[4] While Apple and CPC agree on this construction, CPC does not agree with Apple's proposed construction for "accessibility attribute" contained within this construction.

II.   Disputed Constructions

Term	Plaintiff's Proposal	Defendant's Proposal
'039 Patent		
1. "biometric card pointer system" '039 Patent Cls. 1, 19 **Apple proposed term.	plain and ordinary meaning	"a system including a card or key fob with data that points to a memory location where a user's biometric data is stored"
2. "biometric card pointer enrolment system"[5] '039 Patent Cl. 13 **Apple proposed term.	plain and ordinary meaning	"a system including a card or key fob with data that points to a memory location where a user's biometric data is stored"
3. "means for defining, dependent upon the received card information, a memory location in a local memory external to the card" '039 Patent, Cl. 13 **Apple proposed term.	Means plus function language pursuant to section 112. The function of this limitation is "defining, dependent upon the received card information, a memory location in a local memory external to the card." The means for performing that function is plus function language pursuant to section 112. Structure corresponding to the claimed means is a computer system with a processor executing a biometric card pointer (BCP) application stored in memory and all equivalents thereto. '039 Patent, col. 6, line 66 – col. 7, line 23; col. 7, lines	Indefinite for lacking corresponding structure. Function: defining, dependent upon the received card information, a memory location in a local memory external to the card Structure: none

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[5] Apple identified terms 1 and 2, "biometric card pointer system" and "biometric card pointer enrolment system," as a single term in its briefing and proposed the same construction for both terms. CPC also proposed the same construction for both terms, but identifies these two terms as separate terms here.

Term	Plaintiff's Proposal	Defendant's Proposal
	31-35, 39-42, 47-48; col. 8, lines 44-46; col. 11, lines 29-37; col. 12, lines 1-9; Fig. 4.	
4. "means for determining if the defined memory location is unoccupied"- now agreed	See Section I, above.	This term was originally disputed, however, CPC agreed to adopt the structure proposed by Apple during briefing. ECF Docket No. 49 at 8.
5. "means for storing, if the memory location is unoccupied, the biometric signature at the defined memory location" '039 Patent, Cl. 13 **Apple proposed term.	Means plus function language pursuant to section 112. The function for this limitation is "storing, if the memory location is unoccupied, the biometric signature at the defined memory location." Structure corresponding to the claimed means is a computer system with a processor executing a BCP application stored in memory and all equivalents thereto. '039 Patent, col. 6, line 66 – col. 7, line 23; col. 5, lines 13-18 & lines 19- 22 & 23-30; Fig. 7, step 401.	Function: storing, if the memory location is unoccupied, the biometric signature at the defined memory location Structure: processor unit 105 running software process(es) 401 and storage device 109
The '705 and '208 Patents		
6. "being characterized according to/determining/determine at least one of the number of said entries and a duration of each said entry" '208 Patent Cls. 1, 9, 10 '705 Patent Cls. 1, 10, 11, 14, 15, 16, 17 **Apple proposed term.	plain and ordinary meaning	Plain and ordinary meaning, which is, identifying and storing data of the biometric signal that includes both of (1) at least one of the number of said entries and (2) a duration of each said entry.

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