#### UNITED STATES DISTRICT COURT WESTERN DISTRICT OF TEXAS WACO DIVISION

CPC PATENT TECHNOLOGIES PTY LTD.,

Plaintiff,

v.

APPLE, INC.,

Defendant.

Case No. 6:21-cv-00165-ADA

JURY TRIAL DEMANDED

### 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"	'039 Patent, Cls. 1, 13, 19	plain and ordinary meaning, defined as "contingent on or determined by"	*CPC
"biometric signature" <sup>2</sup>	'039 Patent, Cls. 1, 13, 19	plain and ordinary meaning	**Apple
"determining" <sup>3</sup>	'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

<sup>&</sup>lt;sup>1</sup> 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).

<sup>&</sup>lt;sup>3</sup> 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).



<sup>&</sup>lt;sup>2</sup> The construction of this term is, however, disputed in the context of the '705 Patent and '208 Patent.

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	Function: determining if the defined memory location is unoccupied  Structure: 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.

<sup>&</sup>lt;sup>4</sup> 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"  '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 –	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

<sup>&</sup>lt;sup>5</sup> 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	Digintiff's Duamasal	Defendant's Duanesal
Term	Plaintiff's Proposal 31-35, 39-42, 47-48; col. 8,	Defendant's Proposal
	lines 44-46; col. 11, lines 29-	
	37; col. 12, lines 1-9; Fig. 4.	
4. "means for determining if the	See Section I, above.	This term was originally
defined memory location is		disputed, however, CPC
unoccupied"- now agreed		agreed to adopt the structure proposed by
		Apple during briefing. ECF
		Docket No. 49 at 8.
5. "means for storing, if the	Means plus function	Function: storing, if the
memory location is unoccupied,	language pursuant to section	memory location is
the biometric signature at the	112.	unoccupied, the biometric
defined memory location"	The function for this	signature at the defined memory location
'039 Patent, Cl. 13	limitation is "storing, if the	memory rocation
	memory location is	Structure: processor unit
**Apple proposed term.	unoccupied, the biometric	105 running software
	signature at the defined	process(es) 401 and storage
	memory location."	device 109
	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.	
	,,-,,,,,,,,,,,-	
The '705 and '208 Patents		
6. "being characterized according	plain and ordinary meaning	Plain and ordinary meaning,
to/determining/determine at least	prain and ordinary meaning	which is, identifying and
one of the number of said entries		storing data of the biometric
and a duration of each said entry"		signal that includes both of
1200 P 61 . 1 . 2 . 1 . 2		(1) at least one of the
'208 Patent Cls. 1, 9, 10		number of said entries and
'705 Patent Cls. 1, 10, 11, 14, 15, 16, 17		(2) a duration of each said entry.
10, 17		Chuy.
**Apple proposed term.		



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