Appendix A: Maxell's Response to Apple's Appendix 1 (Dkt. No. 161-20)

Page No. (D.I. 136)	Maxell's Characterization	Apple's Expert	Maxell
3, 5	"***Both parties' experts agree that the term connotes sufficient structure to a person of ordinary skill***[1] in the art in the form of one or more known hardware and/or software solutions." (citing to Menasce Decl. at ¶ 63) "In fact, both parties' experts were able to identify a number of software and hardware solutions for implementing the capacity detector, ***confirming that the term itself conveys 'a variety of structures'*** to persons skilled in the art."	Menasce Decl. (Simmons Decl., Ex. A) at ¶ 63: And even if the "capacity detector" is limited to those devices that perform the function of "detecting a remaining battery capacity of [a] battery," ***this does not sufficiently describe a structure for such devices***. This is because there can be many different classes of structures that could perform the function of "detecting a remaining capacity of [a] battery." For example, this function could be performed by a software that implements an algorithm that determines the remaining capacity of a battery. This function could be performed by a specialized hardware component specifically built for the purposes of determining the remaining capacity of a battery. This function could be performed by an analog circuit designed to output a signal that corresponds to the remaining capacity of a battery. This function could also be performed by a digital circuit that turns on or off based on the remaining capacity of a battery. This function could be performed by any combination of the hardware or software devices that are listed above. ***Therefore, a person of ordinary skill in the art around the filing of the '794 patent would not have known what structure is intended for a***	As the underlini expert (Dr. Men four structures c capacity detecto that a POSITA " "capacity detect structure and als evidence that a know the plain a meaning of this Menasce's conc his opinions (un support Maxell'

[1]Bold and italics were included in the original by Apple. Underlining has been added by Maxell.

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	(citing to Menasce Decl. at ¶ 63)	***"capacity detector" recited in the '794 patent, claims 1 and 9***.	
5	"Another of Apple's experts in this case even conceded that 'battery capacity detector' has a 'much more' ***specific structure*** than the claim term 'device.'" (citing to Paradiso Dep. Tr. at 48:24- 49:1)	Paradiso Dep. Tr. (Simmons Decl., Ex. L) at 47:21-48:5, 48:20-49:9 (objections omitted): Q. What do you mean by the fact that these terms do not connote any specific structure? A. A device can be anything. It can be an abacus, it can be a palmtop computer or phone. It's a very generic term, so it's very open. And in a patent, when you interpret a patent, you need to define what the device is, what you mean by "device." And this is something that PTAB agreed with, also you guys agreed with in the former IPR … Q. Would a term like, for example, "GPS" provide sufficient structure? A. "GPS receiver" would. Q. Would you -- something like a "battery capacity detector" provide sufficient structure? A. ***For a device, and not in this context.*** You're talking about a totally different patent, perhaps. Q. Different context, yeah. A. ***I think it depends. There are so many ways of doing a battery capacity detector, but that is much more specific than "device," I'll give you that***.	As the underlini expert (Dr. Para "battery capacit "much more spe device. He ever give you that." Maxell's has cit Dr. Paradiso sta that a battery ca much more spec device.

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7	"Apple's expert justifies this by arguing that the sound generator could be confused with 'electric generators, engine generators, gas generators, motor generators, signal generators,' or even a 'cow bell.'" (citing to Bederson Decl. at ¶ 32)	Bederson Decl. (Simmons Decl., Ex. B) at ¶¶ 32-33: At the outset, I note that one of ordinary skill in the art would not understand the term "generator" to denote sufficiently definite structure. Instead, the "generator" term would be understood as anything that performs the function of generating. ***Indeed, in different contexts, the word "generator" can be used to refer to entirely different classes of structures. Some examples include electric generators, engine generators, gas generators, motor generators, signal generators, and many others.*** Further, one of ordinary skill in the art would not understand the term "ringing sound generator" to convey any definite structure or device. Although the term does not use the "means for..." formulation, the term "ringing sound generator" is merely a descriptive term that repeats its intended function, *i.e.*, to generate a ringing sound. ***Thus, one of ordinary skill in the art would understand that a "ringing sound generator" could be anything that generates a ringing sound***. For example, a person ringing a cow bell could be a "ringing sound generator."	As the underlini expert (Dr. Bed this term "woul anything that pe of generating . . include electric generators, gas generators, sign further opined t a cow bell could generator.'" Maxell's has qu examples verba
10-11	Even Apple's own expert opines that a person of ordinary skill in the art would	Menasce Decl. (Simmons Decl., Ex. A) at ¶ 79: The term "input unit" is not a term of art used in the field relevant to the '438 patent. ***There is no***	As the underlini expert (Dr. Men he is aware of k an input unit inc

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	understand that ***"input unit" corresponds to known structures*** such as a "mouse, keyboard, touch screen, touch-pen, [and] voice-activated inputs. (citing to Menasce Decl. at ¶ 79 and Menasce Dep. Tr. at 85:12-18 and 86:13-15)	***commonly understood structure for an "input unit." This is because many different classes of structure can act as an "input unit."*** For example, "input unit" could refer to a wide variety of structures implemented by many possible hardware/software alternatives (e.g., mouse, keyboard, touch screen, touch-pen, voice-activated inputs). Some of these input mechanisms are more appropriate for some applications as compared to others. For example, touch-pen is more appropriate for inputting hand-written text, drawings, and voice-activated inputs nay be more appropriate for people with some types of disabilities. ***Therefore, a person of ordinary skill in the art around the filing of the '438 patent would not have known what structure is intended for an "input unit for receiving an input entered by a user."*** Menasce Dep. Tr. (Simmons Decl., Ex. J) at 84:24-85:18 and 86:13-16: (objections omitted): Q. And a person of ordinary skill in the art would understand the touch screen is ***a type of input***; right? … A. Well, it's -- at the time we had -- a person of ordinary skill in the art at that time would probably not have touch screens. Touch screens, I believe, were not that prevalent at the time of	keyboard, touch [and] voice-acti During his depo even confirmed would recogniz mouse, and voic example of an i These examples that a POSITA understood "inp known structure evidence that a know the plain meaning of this

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		the '438 patent. So, if you told that person that touch screen is an input device, they may not have understood that properly. Q. Right. What about a keyboard? A. Keyboard, that's an example. Q. What about a mouse? A. That's another example – Q. Voice recognition? A. -- of an input device. ... Q. Did you have to do any special research to come up with these examples of input units? A. No. These are examples that I know about based on my experience.	
13	"Likewise, Apple attempts to limit the claimed "comment" to "written content" only. ***But even Apple's expert admits that lay persons would understand the meaning of 'comment' and that a comment as it is generally understood would not be limited just to written content.***"	Menasce Dep. Tr. (Simmons Decl., Ex. J) at 98:3-10, 99:22-100:2, 102:10-22 (objections omitted): Q. The way you're interpreting comment, is that sort of the lay person's understanding of comment, like any person on the street would understand the term? A. As I said before, comment is not a term of art. ***So it depends on the context. You have to qualify what you mean by comment***. ... Q. Is that context narrower than how a lay person would understand the word comment?	As the underlini Menasce did tes that a lay person necessarily unde be limited to wr that a lay person sorts of answers comment is bec would understar

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