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

RFCYBER CORP.,	§	Case No. 6:21-cv-00916-ADA
Plaintiff,	§	**JURY TRIAL DEMANDED**
v.	§	
APPLE INC.,	§	
Defendant.	§	

PLAINTIFF RFCYBER CORP.'S
RESPONSIVE CLAIM CONSTRUCTION BRIEF

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Pursuant to the Court's Scheduling Order (Dkt. 29), Plaintiff RFCyber Corp. ("RFCyber") hereby submits its Responsive Claim Construction Brief. The asserted patents are U.S. Patent Nos. 8,118,218 (the "'218 Patent"), 8,448,855 (the "'855 Patent"), 9,189,787 (the "'787 Patent"), 9,240,009 (the "'009 Patent"), 10,600,046 (the "'046 Patent"), and 11,018,724 (the "'724 Patent") (together, the "Asserted Patents").

I. INTRODUCTION

RFCyber is a pioneer in mobile and electronic payment technology. The Asserted Patents embody RFCyber's technology and are directed to various aspects of a mobile payment system.

The Parties have met and conferred and reached agreement on most terms. The only terms in dispute are:

- "e-purse" / "electronic purse";
- "e-purse applet";
- "payment server";
- "security authentication module" / "SAM"; and
- "application."

For "e-purse" and "electronic purse," Apple misconstrues the intrinsic record to suggest there was a clear and unmistakable disclaimer that would limit these terms to electronic value. However, a correct reading of the prosecution history shows that no such disclaimer was made; the applicants distinguished the patented invention, which stores information locally, from "an e-wallet system [that] has a user credit-card and personal info at the backend. . ." Ex. 1 at 9. Indeed, in the *Google* case, Judge Gilstrap considered precisely the same argument and evidence on which Apple relies and found that there was no disclaimer. Apple further seeks to confuse matters by

proposing the same construction for e-purse applet. But the patents use "e-purse" and "e-purse applet" differently. An "e-purse applet" is an applet that is a component of an e-purse.

For "security authentication module" / "SAM," Apple seeks to introduce the requirement that the SAM "authenticate transactions of funds or transfers of funds." Nothing in the intrinsic record imposes such a requirement.

Finally, Apple seeks to construe the commonplace terms "application" and "payment server." Apple's requested limitations are presumably intended to manufacture a non-infringement defense. A jury can apply these terms without construction.

Accordingly, the Court should adopt RFCyber's constructions for e-purse, e-purse applet, and SAM, and reject Apple's unsupported constructions.

II. THE PATENTS-IN-SUIT

A. The '218, '855, and '787 Patents

The '218, '855, and '787 Patents share a common specification and are directed to various aspects of a mobile payment system focusing, in particular, on inventions for "portable devices, functioning as an electronic purse." ('218 Patent, 1:34-38.)

In exemplary embodiments, the invention provides a portable device, such as a cell phone with a smart card module, configured to conduct e-commerce transactions over contactless interfaces and m-commerce transactions over wireless interfaces. (*Id.* 1:42-2:46.) Figure 2 of the '218 Patent shows an exemplary embodiment of the system:

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