From: Joshua J. Yi
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Cc: Kevin Yang; Kristie Davis; Jennifer Clark
Subject: Theta IP, LLC v. Apple Inc. (6:23-cv-00314-ADA)
Date: Monday, March 25, 2024 6:09:21 PM

[EXTERNAL]

Counsel,

The Court provides the following preliminary constructions in advance of tomorrow's Markman hearing. The purpose of preliminary constructions is to streamline the hearing by providing the parties an indication of the Court's current position for each term. Although the parties are, of course, free to argue for their originally proposed construction, it is generally unlikely that the Court will select a party's originally proposed construction over the preliminary construction. As such, the Court believes that making arguments to fine-tune the preliminary construction may be more helpful. The preliminary constructions are not final as the Court may change some those constructions based on the arguments at the hearing.

Of the below terms, please let me know what terms each side would like to argue two hours before the 11AM hearing. Each side may email their list separately (but please CC the other side) or jointly (please indicate which side, or both, wants to argue each term). To the extent a junior attorney will be arguing a term, please let me know which term(s) the junior attorney will be arguing.

Also, at least 30 minutes before the hearing, please submit any slides the parties (and CC the other side) wish to use at the Markman hearing.

If you have any questions, please let me know. Thanks.

-Josh

P.S. To assist the court reporter (Kristie Davis, CC-ed), please email her a copy of your slides as soon as possible (it's okay if it's just a draft). When you email her, no need to CC the other side or the Court as it is purely to help her generate the transcript as quickly as possible.

Term	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Preliminary Construction
#1: "signal path" U.S. Patent No. 7,010,330, Claims 1, 23, 29; U.S. Patent No. 10,129,825, Claims 3, 4, 8; U.S. Patent No. 10,524,202, Claims 7–11, 13; U.S. Patent	Plain and ordinary meaning	"path for analog signal"	Plain-and-ordinary meaning

No. 11,564,164, Claims 5, 7–9, 20; U.S. Patent No. 11,638,210, Claims 3, 6, 10			
#2: "impedance" U.S. Patent No. 7,010,330, Claims 1, 23, 29; U.S. Patent No. 10,129,825, Claims 4, 8; U.S. Patent No. 10,524,202, Claims 7, 8; U.S. Patent No. 11,564,164, Claim 7; U.S. Patent No. 11,638,210, Claims 3, 10	Plain and ordinary meaning, but if construed, should be construed as "opposition to the flow of alternating current"	Plain and ordinary meaning	Plain-and-ordinary meaning
#3A: "switching current" U.S. Patent No. 7,010,330, Claims 1, 23	Plain and ordinary meaning	"the current that carries a signal through a load" Or, if plain and ordinary meaning, "current required to change the state of a transistor/system"	Plain-and-ordinary meaning
#3B: "drive current" U.S. Patent No. 10,129,825, Claim 8; U.S. Patent No. 11,638,210, Claim 10	Plain and ordinary meaning	Plain and ordinary meaning, which is "current required to keep a transistor/system at a steady state" or "the current that carries a signal through a load"	Plain-and-ordinary meaning
#4: "dynamically [adjusting/adjusted/adjust/ changing/decreased/increasing/ increased/reducing/reduced/ varying/vary]" U.S. Patent No. 7,010,330, Claims 1, 23, 29; U.S. Patent No. 10,524,202, Claims 7–9, 11, 13; U.S. Patent No. 11,564,164, Claims 5, 7, 8, 20;	Plain and ordinary meaning, wherein the plain and ordinary meaning is: "adjusting during operation	"adjusting / changing / increasing / reducing / varying during operation without reliance on a signal strength threshold"	Plain-and-ordinary meaning

U.S. Patent No. 11,638,210, Claims 3, 6, 10	based, at least in part, on information gained during operation"		
#5A: "best-case" U.S. Patent No. 10,524,202, Claims 7-9; U.S. Patent No. 11,564,164, Claim 20	Plain and ordinary meaning	"desired signal strength is high and interferer signal strength is low"	Plain-and-ordinary meaning
#5B: "worst-case" U.S. Patent No. 10,129,825, Claims 3, 4, 8; U.S. Patent No. 10,524,202, Claims 7–11; U.S. Patent No. 11,564,164, Claims 5, 7–9, 20	Plain and ordinary meaning	"desired signal strength is low and interferer signal strength is high"	Plain-and-ordinary meaning

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