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**UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA**

SMITH INTERFACE
 TECHNOLOGIES, LLC,

Plaintiff,

v.

APPLE INC.,

Defendant.

Case No. 3:23-cv-1187-TWR-BJC

**JOINT CLAIM CONSTRUCTION
 CHART, WORKSHEET, AND
 HEARING STATEMENT
 PURSUANT TO PATENT L.R. 4.2**

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Case No. 3:23-cv-01187-TWR-BJC

Pursuant to this Court’s Case Management Order Regulating Discovery and Other Pretrial Proceedings in a Patent Case (ECF No. 102) and Patent L.R. 4.2, Plaintiff Smith Interface Technologies, LLC (“Smith Interface”) and Defendant Apple Inc. (“Apple”) hereby file this Joint Claim Construction Chart, Worksheet, and Hearing Statement regarding the constructions of identified claim terms in U.S. Patent Nos. 10,642,413 (the “’413 Patent”); 10,649,578 (the “’578 Patent”); 10,649,580 (the “’580 Patent”); 10,656,754 (the “’754 Patent”); 10,656,755 (the “’755 Patent”); 10,656,758 (the “’758 Patent”); 10,671,212 (the “’212 Patent”); 10,725,581 (the “’581 Patent”); 10,936,114 (the “’114 Patent”); and 11,740,727 (the “’727 Patent”) (collectively, the “Asserted Patents”).

I. PARTIES’ JOINT PRELIMINARY STATEMENT

The Parties would like to notify the Court that they have agreed to file an Amended Joint Claim Construction Chart, Worksheet, and Hearing Statement given that Smith Interface’s October 18, 2024 “claim election of no more than 20 claim per patent and no more than 64 total claims” and November 28, 2024 “claim election of no more than ten claims per Asserted Patent and no more than 32 claims in total two weeks prior to claim construction hearing” (ECF No. 91) is expected to streamline and decrease the number of claim terms.

II. IDENTIFICATION OF MOST SIGNIFICANT TERMS

Pursuant to Patent L.R. 4.2(a), Smith Interface and Apple identify the following 10 terms as most significant to the resolution of the case (in no particular order):

1. “a reduction in a size [that is/so as to be] inversely related to the duration of the gesture” (’114 Patent, claims 27, 30, and 32);
2. “performing a [first/second/third] operation” (’413 Patent, claims 1 and 101) / “performing an operation [in connection with / on] the first application icon” (’758 Patent, claims 1 and 124) / “perform an operation” (’212 Patent, claims 1 and 16);

3. “adjacent” (’413 Patent, claim 7; ’212 Patent, claim 57; ’754 Patent claims 29, 193, 205, 206, 208);
4. “substantially fills” (’413 Patent, claim 9);
5. “action-option- display criteria” (’758 Patent, claims 1 and 124);
6. “movement criteria” (’758 Patent, claims 1 and 124);
7. “action options” (’758 Patent, claims 1 and 124);
8. “evaluating the first single-finger touch input against at least one of a plurality of criteria, including evaluating a duration of the first single-finger touch input against at least one of: one or more application-launch criteria, one or more action-option-display criteria, or one or more operation criteria, and further including evaluating a movement of the first single-finger touch input against one or more movement criteria”(’758 Patent, claims 1, 27);
9. “when . . . the duration of the first contact is determined to be greater than the second user- configurable predefined duration . . . and the end of the first contact is not detected” (’581 Patent, claim 1);
10. “distance magnitude [of the gesture]” (’727 Patent, claims 1, 2; ’754 Patent, claims 27, 32, 38, 75, 76-79, 83, 85, 86, 186, 208, 211, 218, 221).

A. Smith Interface’s Statement

In agreeing to the above terms as the ten most significant, Smith Interface does not agree with Apple that eight of those terms, none of which Apple identified in its IPRs as indefinite, are indefinite. Rather, Smith Interface only agrees that a finding of indefiniteness would be dispositive of claims including those terms. Further, Smith Interface does not agree that the two remaining terms for which Apple apparently believes a construction would lead to noninfringement would, in fact, lead to noninfringement.

Smith Interface objects to Apple’s identification of “a reduction in a size [that is/so as to be] inversely related to the duration of the gesture” as limited to Claims

27, 30, and 32 of the '114 Patent. Apple failed to explain during the meet and confer process why the similar language of Claim 1 of the '114 Patent (“a reduction in a size such that the size is inversely related to the magnitude of the duration of the gesture”) would not be subject to the same construction.

B. Apple’s Statement

Apple’s position is that the four “criteria” terms in claims 1 and 124 of the '758 Patent (i.e., “application-launch criteria,” “action-option-display criteria,” “operation criteria,” and “movement criteria”) and the two “action option” terms in claims 1 and 124 of the '758 Patent (i.e., “action options” and “action option objects”) should each be treated and briefed, respectively, as a single term for each group. The claim construction issues to be briefed and decided amongst these terms in each respective grouping are virtually identical to each other. The parties met and conferred on this position, but could not reach agreement. Therefore, for purposes of the top 10 terms above, Apple has selected representative terms from both the “criteria” and “action option” groups, but intends to brief and seek a claim construction ruling on each of the “criteria” and “action option” group terms.

In response to Smith’s statement above with respect to the “a reduction in a size [that is/so as to be] inversely related to the duration of the gesture” term, Apple did explain during the meet and confer process why this construction is limited to Claims 27, 30, and 32 of the '114 Patent but, regardless, this Hearing Statement is not the proper filing for substantive arguments about the merits and applicability of proposed claim constructions.

III. JOINT CLAIM CONSTRUCTION CHART

Pursuant to Patent L.R. 4.2(b), Smith Interface’s and Apple’s proposed construction of each disputed claim term, along with each party’s identification of supporting evidence, is attached as Exhibit A. For each disputed claim term, phrase, or clause, Exhibit A further includes each party’s identification of the impact of the proposed constructions on the merits of the case.

IV. JOINT CLAIM CONSTRUCTION WORKSHEET

Pursuant to Patent L.R. 4.2(c), attached as Exhibit B is the Joint Claim Construction Worksheet, which includes Smith Interface's and Apple's disputed and agreed upon constructions.

V. ANTICIPATED LENGTH OF CLAIM CONSTRUCTION HEARING

Pursuant to Patent L.R. 4.2(d)(1), Smith Interface and Apple anticipate the length of time necessary for the Claim Construction hearing is approximately four (4) hours, and respectfully propose that each side be allocated approximately equal amounts of time to present their positions. If the Court requests a technology tutorial, the parties will meet and confer on the technology tutorial and its estimated length at that time.

VI. WITNESSES FOR CLAIM CONSTRUCTION HEARING

Pursuant to Patent L.R. 4.2(d)(2), Smith Interface and Apple do not expect to present live testimony of witnesses at the Claim Construction Hearing. The parties respectfully propose that expert testimony be submitted via declaration along with the claim construction briefing. Given that Smith Interface is expected to narrow its elected claims to no more than 20 per patent and 64 total claims by October 18, 2024, which Smith Interface believes will render moot the need for the parties to brief and the Court to construe certain disputed claim terms, the parties have agreed to the following schedule for exchange of expert declarations:

- October 22, 2024 – Apple serves Declaration of Dr. Bajaj
- October 29, 2024 – Smith Interface serves Responsive Declaration of Dr. Mahon

The parties will also jointly seek a ten day extension of the claim construction discovery deadline (from October 29, 2024 to November 8, 2024) in order to allow for depositions of Dr. Bajaj and Dr. Mahon, if necessary.

VII. ORDER OF PRESENTATION

Pursuant to Patent L.R. 4.2(d)(3), Smith Interface and Apple anticipate

1 presenting the claim-construction issues term by term.

2 Smith Interface and Apple propose that, on terms for which Apple contends
3 are indefinite and on which Apple bears the burden of persuasion, that Apple present
4 first followed by Smith Interface, or at the Court's discretion.

5 For all other terms, Apple proposes that the parties alternate who presents first,
6 or at the Court's discretion, and Smith Interface proposes that for these terms the
7 party to speak first will be at the Court's discretion.

1 Dated: October 1, 2024

2 Respectfully submitted,

3 /s/ Daniel Leventhal

4 /s/ Peter Maggiore

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EXHIBIT A

EXHIBIT A: JOINT CLAIM CONSTRUCTION CHART

Claim Term	Plaintiff's Proposed Construction	Defendant's Proposed Construction
an operation on the first application icon, and based on a determination that the first single-finger touch input meets the one or more movement criteria, moving the first application icon in a foreground virtual display layer so that the first application icon appears to float above a background virtual display layer.		
<p><u>Term:</u> “movement parameter”</p> <p><u>'578 Patent:</u> Claims 1 and 27</p> <p>1. An electronic device, comprising: a display; a touch interface; one or more processors; memory; and one or more programs, wherein the one or more programs are stored in the memory and configured to</p>	<p><u>Proposed Construction:</u> Plain and ordinary meaning.</p> <p><u>Impact Statement:</u> Smith Interface does not believe that the construction of this term is either case or claim dispositive. Indeed, as evidenced by Apple's invalidity contentions and petitions for <i>Inter Partes</i> Review, the parties do not dispute the meaning of this term.</p> <p><u>Intrinsic Evidence:</u></p>	<p><u>Proposed Construction:</u> Indefinite.</p> <p><u>Impact Statement:</u> Apple believes this term would fully dispose of all issues related to the '578 patent.</p> <p><u>Intrinsic Evidence:</u> '578 patent at: 1:57-3:25, 43:28-37, 57:21-30, 63:62-64:6, 79:53-80:54. Claims 1, 12, 14, 15, 26, 27, 38, 39.</p>

EXHIBIT A: JOINT CLAIM CONSTRUCTION CHART

Claim Term	Plaintiff's Proposed Construction	Defendant's Proposed Construction
<p>be executed by the one or more processors, the one or more programs including instructions for:</p> <p>displaying a home screen on the display, the home screen including an icon associated with an application;</p> <p>while displaying the home screen, detecting a first input by a first contact on the icon;</p> <p>in response to detecting the first input, replacing the home screen with a user interface of the application;</p> <p>while displaying the user interface of the application, detecting a second input by a second contact that includes movement across the display in a direction;</p> <p>in response to detecting the second input and in</p>	<p>The specification of the '578 Patent generally, including but not limited to: '578 Patent at 1:57-3:25.</p> <p>The claims of the '578 Patent.</p> <p>'578 Prosecution History.</p> <p>IPR2024-01084</p> <p><u>Extrinsic Evidence:</u></p> <p>Smith Interface reserves the right to rely on testimony from Dr. Mahon. Dr. Mahon may testify regarding the plain meaning of the term to a person of ordinary skill in the art in view of the patent specification and other intrinsic evidence. Dr. Mahon may further testify that the term viewed in light of the specification and other intrinsic evidence informs those skilled in the art about the scope of the alleged invention with reasonable certainty.</p> <p>Smith Interface may also rely on Defendant's invalidity contentions and Smith Interface's infringement</p>	<p><u>Extrinsic Evidence:</u></p> <p>Apple reserves the right to rely on testimony from Dr. Chandrajit Bajaj. Dr. Bajaj may testify regarding the plain meaning of the term to a person of ordinary skill in the art in view of the patent specification and other intrinsic evidence. Dr. Bajaj may further testify that the term viewed in light of the specification and other intrinsic evidence fails to inform those skilled in the art about the scope of the alleged invention with reasonable certainty.</p>

EXHIBIT A: JOINT CLAIM CONSTRUCTION CHART

Claim Term	Plaintiff's Proposed Construction	Defendant's Proposed Construction
accordance with a determination that the second input meets one or more criteria that is met when the second input is detected to include a movement parameter that is above a movement threshold, displaying at least a portion of the user interface of the application in a first virtual display layer that appears at a lesser depth as compared to a second virtual display layer, such that the at least portion of the user interface of the application is reduced in size and is further displayed in its entirety when displayed in the first virtual display layer; and in response to detecting the second input and in accordance with a	contentions, including any references or citations therein. Smith Interface reserves the right to rely upon any evidence cited or relied upon by Defendant.	

EXHIBIT A: JOINT CLAIM CONSTRUCTION CHART

Claim Term	Plaintiff's Proposed Construction	Defendant's Proposed Construction
determination that the second input does not meet the one or more criteria that is met when the second input is detected to include the movement parameter that is above the movement threshold, replacing the user interface of the application with the home screen including the icon associated with the application.		
27. A non-transitory computer readable storage medium storing one or more programs, the one or more programs comprising instructions which, when executed by an electronic device with a display and a touch-sensitive surface, cause the electronic device to:		

EXHIBIT A: JOINT CLAIM CONSTRUCTION CHART

Claim Term	Plaintiff's Proposed Construction	Defendant's Proposed Construction
display a home screen on the display, the home screen including an icon that corresponds to an application; while displaying the home screen, detect a first input by a first contact on the icon; in response to detecting the first input on the icon, replace the home screen with a user interface of the application; while displaying the user interface, detect a second input by a second contact that includes movement across the display in a direction; in response to detecting the second input and in accordance with a determination that the second input meets a first one or more criteria that is met when the second input is detected to include a		

EXHIBIT A: JOINT CLAIM CONSTRUCTION CHART

Claim Term	Plaintiff's Proposed Construction	Defendant's Proposed Construction
movement parameter that is above a movement threshold and that the second input that meets a second one or more criteria that is met when the second input is detected to include a duration parameter that is above a duration threshold, display at least a portion of the user interface of the application in a first virtual display layer that appears at a lesser depth as compared to a second virtual display layer, where the at least portion of the user interface of the application is reduced in size and is further displayed in its entirety when displayed in the first virtual display layer; and in response to detecting the second input and in accordance with a determination that the second input meets the first one or		

EXHIBIT A: JOINT CLAIM CONSTRUCTION CHART

Claim Term	Plaintiff's Proposed Construction	Defendant's Proposed Construction
more criteria that is met when the second input is detected to include the movement parameter that is above the movement threshold and that the second input does not meet the second one or more criteria that is met when the second input is detected to include the duration parameter that is above the duration threshold, replace the user interface of the application with the home screen including the icon that corresponds to the application.		
<p><u>Term:</u> “when . . . the duration of the first contact is determined to be greater than the second user- configurable predefined duration . . . and the end of the first contact is not detected”</p> <p><u>'581 Patent:</u> Claim 1</p>	<p><u>Proposed Construction:</u> Plain and ordinary meaning.</p> <p><u>Impact Statement:</u> Smith Interface does not believe that the construction of this term is either case or claim dispositive. Indeed, as evidenced by Apple's invalidity contentions and petitions for <i>Inter Partes</i> Review, the</p>	<p><u>Proposed Construction:</u> Indefinite.</p> <p><u>Impact Statement:</u> Apple believes this term would fully dispose of all issues related to the '581 patent.</p> <p><u>Intrinsic Evidence:</u> '581 Patent at:</p>