

Brian A. Sun (CA SBN 89410)
NORTON ROSE FULBRIGHT US LLP
555 South Flower Street
Forty-First Floor
Los Angeles, CA 90071
Telephone: (213) 892-9200
brian.sun@nortonrosefulbright.com

Brett C. Govett (*pro hac vice*)
(TX SBN 08235900)
NORTON ROSE FULBRIGHT US LLP
2200 Ross Avenue, Suite 3600
Dallas, Texas 75201
Telephone: (214) 855-8000
brett.govett@nortonrosefulbright.com

Daniel S. Leventhal (*pro hac vice*)
(TX SBN 24050923)
NORTON ROSE FULBRIGHT US LLP
1301 McKinney, Suite 5100
Houston, Texas 77010
Telephone: (713) 651-5151
daniel.leventhal@nortonrosefulbright.com

Counsel for Plaintiff Smith Interface Technologies, LLC

[Additional counsel listed on signature page]

Sean Cunningham (CA SBN 174931)
sean.cunningham@us.dlapiper.com
Richard Mulloy (CA SBN 199278)
richard.mulloy@us.dlapiper.com
Robert Williams (CA SBN 246990)
robert.williams@us.dlapiper.com
Peter Maggiore (CA SBN 292534)
peter.maggiore@us.dlapiper.com
DLA PIPER LLP (US)
4365 Executive Dr, Suite 1100
San Diego, California 92121-2133
Telephone: 858.677.1400
Facsimile: 858.677.1401

Counsel for Defendant Apple Inc.

[Additional counsel listed on signature page]

**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

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

5 **B. Apple’s Statement**

6 Apple’s position is that the four “criteria” terms in claims 1 and 124 of the
7 '758 Patent (i.e., “application-launch criteria,” “action-option-display criteria,”
8 “operation criteria,” and “movement criteria”) and the two “action option” terms in
9 claims 1 and 124 of the '758 Patent (i.e., “action options” and “action option objects”)
10 should each be treated and briefed, respectively, as a single term for each group. The
11 claim construction issues to be briefed and decided amongst these terms in each
12 respective grouping are virtually identical to each other. The parties met and
13 conferred on this position, but could not reach agreement. Therefore, for purposes
14 of the top 10 terms above, Apple has selected representative terms from both the
15 “criteria” and “action option” groups, but intends to brief and seek a claim
16 construction ruling on each of the “criteria” and “action option” group terms.

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

23 **III. JOINT CLAIM CONSTRUCTION CHART**

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

1 **IV. JOINT CLAIM CONSTRUCTION WORKSHEET**

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

5 **V. ANTICIPATED LENGTH OF CLAIM CONSTRUCTION HEARING**

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

12 **VI. WITNESSES FOR CLAIM CONSTRUCTION HEARING**

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

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

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

27 **VII. ORDER OF PRESENTATION**

28 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
4 /s/ Daniel Leventhal

/s/ Peter Maggiore

5 **NORTON ROSE FULBRIGHT US LLP**

6 Brian A. Sun
7 (CA SBN 89410)
8 555 South Flower Street
9 Forty-First Floor
10 Los Angeles, California 90071
11 Telephone: (213) 892-9222
12 brian.sun@nortonrosefulbright.com

13 Brett C. Govett (*pro hac vice*)
14 (TX SBN 08235900)
15 Vlada A. Wendel (*pro hac vice*)
16 (TX SBN 24131751)
17 2200 Ross Avenue, Suite 3600
18 Dallas, Texas 75201
19 Telephone: (214) 855-8000
20 brett.govett@nortonrosefulbright.com
21 vlada.wendel@nortonrosefulbright.com

22 Daniel S. Leventhal (*pro hac vice*)
23 (TX SBN 24050923)
24 1301 McKinney, Suite 5100
25 Houston, Texas 77010-3095
26 Telephone: (713) 651-5151
27 daniel.leventhal@nortonrosefulbright.com

28 John Poulos (*pro hac vice*)
(IL SBN 6324517)
1045 W. Fulton Market, Suite 1200
Chicago, Illinois 60607
Telephone: (312) 964-7766
john.poulos@nortonrosefulbright.com
Counsel for Plaintiff Smith
Interface Technologies, LLC

Sean C. Cunningham
Richard Mulloy
Robert Williams
Peter Maggiore
DLA Piper LLP (US)
4365 Executive Drive, Suite 1100
San Diego, CA 92121
Telephone: (858) 677-1400
Facsimile: (858) 677-1401

Brent K. Yamashita
Peiyao Zhang
DLA Piper LLP (US)
2000 University Avenue
East Palo Alto, CA 94303-2214
Telephone: (650) 833-2000
Facsimile: (650) 833-2001

Jessica Hannah
DLA Piper LLP (US)
555 Mission Street, Suite 2400
San Francisco, CA 94105
Telephone: (415) 836-2500
Facsimile: (415) 836-2501

Zachary Loney (*pro hac vice*)
DLA Piper LLP (US)
401 Congress Avenue, Suite 2500
Austin, TX 78701
Telephone: (512) 457-7000
Facsimile: (512) 457-7001

Counsel for Defendant Apple Inc.

EXHIBIT B

EXHIBIT B: JOINT CLAIM CONSTRUCTION WORKSHEET

Patent Claim	Agreed Proposed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction	Court's Construction
indicia after the first duration of the touch is detected without the ceasing, change at least one aspect of the display of the at least one menu.				
<u>Term:</u> “virtual display layer” <u>'413 Patent:</u> Claims 1 and 101 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	“one or more display elements that appear at the same apparent depth of display”			

EXHIBIT B: JOINT CLAIM CONSTRUCTION WORKSHEET

Patent Claim	Agreed Proposed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction	Court's Construction
more second menu items, and in response to the selection contact being detected on the at least one of the one or more second menu items, performing a third operation; wherein the electronic device is configured such that the graphical user interface is displayed in at least one virtual display layer, and at least one of the first menu or the second menu is displayed in at least one other virtual display layer. <u>'580 Patent:</u> Claims 1, 22, 23, 48, and 58				

EXHIBIT B: JOINT CLAIM CONSTRUCTION WORKSHEET

Patent Claim	Agreed Proposed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction	Court's Construction
1. An apparatus, comprising: at least one non-transitory memory; a touch screen; a camera; and one or more processors in communication with the at least one non-transitory memory, the touch screen, and the camera, wherein the one or more processors execute instructions stored in the non-transitory memory to cause the apparatus to: display, via the touch screen, a first virtual display layer including contents; display, via the touch screen, at least one user interface element;				

EXHIBIT B: JOINT CLAIM CONSTRUCTION WORKSHEET

Patent Claim	Agreed Proposed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction	Court's Construction
detect, via the touch screen, at least a portion of touch on the least one user interface element; when an aspect of the touch is detected to surpass a threshold, display, via the touch screen, a plurality of markings in a second virtual display layer that appears to have a lesser depth than the first virtual display layer , where at least a portion of the second virtual display layer is at least partially translucent so that at least a portion of the contents of the first virtual display layer is visible through the at least portion of the				

EXHIBIT B: JOINT CLAIM CONSTRUCTION WORKSHEET

Patent Claim	Agreed Proposed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction	Court's Construction
second virtual display layer ; detect, via the touch screen, a touch movement on at least one of the plurality of marking; and during detection of the touch movement on the at least one of the plurality of marking in the second virtual display layer that appears to have the lesser depth than the first virtual display layer , display, via the touch screen, a movement of the markings in the second virtual display layer as a function of the touch movement; and perform a zoom operation on the at least				

EXHIBIT B: JOINT CLAIM CONSTRUCTION WORKSHEET

Patent Claim	Agreed Proposed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction	Court's Construction
portion of the contents of the first virtual display layer without performing the zoom operation on the plurality of markings in the second virtual display layer, where the zoom operation correlates with the movement of the markings in the second virtual display layer, and the at least portion of the second virtual display layer is at least partially translucent so that a result of the zoom operation on the at least portion of the contents of the first virtual display layer is visible through the at least portion of the				

EXHIBIT B: JOINT CLAIM CONSTRUCTION WORKSHEET

Patent Claim	Agreed Proposed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction	Court's Construction
second virtual display layer. 22. A method, comprising: at a device with at least one non-transitory memory, a touch screen, a camera, and one or more processors in communication with the at least one non-transitory memory, the touch screen, and the camera: displaying, via the touch screen, a first virtual display layer including contents; detecting, via the touch screen, at least a portion of touch; in response to an aspect of the touch being detected to surpass a				

EXHIBIT B: JOINT CLAIM CONSTRUCTION WORKSHEET

Patent Claim	Agreed Proposed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction	Court's Construction
threshold, displaying, via the touch screen, a plurality of markings in a second virtual display layer that appears to have a lesser depth than the first virtual display layer , where at least a portion of the second virtual display layer is at least partially translucent so that at least a portion of the contents of the first virtual display layer is visible through the at least portion of the second virtual display layer ; detecting, via the touch screen, another touch on at least one of the plurality of marking; and				

EXHIBIT B: JOINT CLAIM CONSTRUCTION WORKSHEET

Patent Claim	Agreed Proposed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction	Court's Construction
in response to detection of the another touch on the at least one of the plurality of marking in the second virtual display layer that appears to have the lesser depth than the first virtual display layer , displaying, via the touch screen, a movement of one or more of the plurality of markings in the second virtual display layer ; and performing a zoom operation on the at least portion of the contents of the first virtual display layer without performing the zoom operation on the plurality of markings in the second virtual				

EXHIBIT B: JOINT CLAIM CONSTRUCTION WORKSHEET

Patent Claim	Agreed Proposed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction	Court's Construction
display layer, where the zoom operation is performed based on the movement of the one or more of the plurality of markings in the second virtual display layer, and the at least portion of the second virtual display layer is at least partially translucent so that a result of the zoom operation on the at least portion of the contents of the first virtual display layer is visible through the at least portion of the second virtual display layer. 23. The method of claim 22, wherein the contents of the first virtual display layer include				

EXHIBIT B: JOINT CLAIM CONSTRUCTION WORKSHEET

Patent Claim	Agreed Proposed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction	Court's Construction
input detected by the camera. 48. The method of claim 23, wherein a lighting operation is performed on the at least portion of the contents of the first virtual display layer, where the lighting operation is performed based on a movement of one or more of a plurality of different markings in the second virtual display layer, and the at least portion of the second virtual display layer is at least partially translucent so that a result of the lighting operation on the at least portion of the contents of the first virtual display layer is				

EXHIBIT B: JOINT CLAIM CONSTRUCTION WORKSHEET

Patent Claim	Agreed Proposed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction	Court's Construction
visible through the at least portion of the second virtual display layer . 58. 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 at least one non-transitory memory, a touch screen, a camera, and one or more processors, cause the electronic device to: display, via the touch screen, a first virtual display layer including contents;				

EXHIBIT B: JOINT CLAIM CONSTRUCTION WORKSHEET

Patent Claim	Agreed Proposed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction	Court's Construction
detect, via the touch screen, at least a portion of touch; in response to an aspect of the touch being detected to surpass a threshold, display, via the touch screen, a plurality of markings in a second virtual display layer that appears to have a lesser depth than the first virtual display layer, where at least a portion of the second virtual display layer is at least partially translucent so that at least a portion of the contents of the first virtual display layer is visible through the at least portion of the second virtual display layer;				

EXHIBIT B: JOINT CLAIM CONSTRUCTION WORKSHEET

Patent Claim	Agreed Proposed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction	Court's Construction
detect, via the touch screen, another touch on at least one of the plurality of marking; and in response to detection of the another touch on the at least one of the plurality of marking in the second virtual display layer that appears to have the lesser depth than the first virtual display layer , display, via the touch screen, a movement of one or more of the plurality of markings in the second virtual display layer ; and perform a zoom operation on the at least portion of the contents of the first virtual				

EXHIBIT B: JOINT CLAIM CONSTRUCTION WORKSHEET

Patent Claim	Agreed Proposed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction	Court's Construction
display layer without performing the zoom operation on the plurality of markings in the second virtual display layer , where the zoom operation is performed based on the movement of the one or more of the plurality of markings in the second virtual display layer , and the at least portion of the second virtual display layer is at least partially translucent so that a result of the zoom operation on the at least portion of the contents of the first virtual display layer is visible through the at least portion of the second virtual display layer .				