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Subject: Preliminary Constructions 1.24.cv.254 (.259) Vervain vs Kingston (Phison)

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. The preliminary constructions are not final, as the Court may change some those constructions based on the arguments at the hearing.

To the extent a junior attorney will be arguing a term, please let me know which terms the junior attorney will be arguing. The Court always encourages and supports opportunities for younger lawyers.

By **0800 CST tomorrow morning**, please submit any slides the parties wish to use at the *Markman* hearing, and 'cc the other side as well as Kristie when doing so. By that same time, please also let me know if the parties have amended (or eliminated) any terms to be construed.

If you have any questions, please don't hesitate to reach out.

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#	Claim(s)	Terms	Id'd	Vervain	Kingston	Phison	Preliminary

1	298:1, 4 385:1, 4, 12-13 240:1, 2, 6-7 300:1, 3-4, 8-12 546:1, 3-4 612:1, 3-4 369:1, 3-4 370:1, 4, 14-16, 18	MLC non-volatile memory	V	Plain and ordinary meaning, where the plain and ordinary meaning is "non-volatile memory that stores multiple bits of information per cell"	non-volatile memory structured to store multiple bits per cell	non-volatile memory cells arranged with circuitry capable of storing multiple logical pages in a single physical page of cells	Plain and ordinary meaning, where the plain and ordinary meaning is "non-volatile memory that stores multiple bits of information per cell".
2	298:1, 4 385:1, 4, 12-13 240:1, 6 546:1 612:1 369:1, 10	MLC non-volatile memory module MLC memory modules	P	Plain and ordinary meaning		modules comprising "MLC non-volatile memory"	Plain and ordinary meaning. No construction necessary.
3	298:1 385:1, 12-13 240:1, 6 300:1, 12 546:1	Blocks	V, K	in a non-volatile memory, a physical group of memory cells	Indefinite		in a non-volatile memory, a physical group of memory cells.
4	298:1, 5	SLC non-volatile	V	Plain and ordinary meaning,	non-volatile memory	non-volatile memory	Plain and ordinary meaning, where the plain and ordinary meaning is "nonvolatile

	385:1, 5, 12 240:1, 2, 6-7 300:1, 3-4, 7-8, 10, 12 546:1, 3-4, 6 612:1, 3-4 369:1, 3-4 370:1, 5, 14-16, 18	memory		where the plain and ordinary meaning is "nonvolatile memory that stores one bit of information per cell"	structured to store only one bit per cell	cells arranged with circuitry incapable of storing multiple logical pages in a single physical page of cells	memory that stores one bit of information per cell".

#	Claim(s)	Terms	Id'd[1]	Vervain	Kingston	Phison	Preliminary
5	298:1, 5 385:1, 5 ,12 240:1, 6 546:1 612:1 369:1, 9-10	SLC non-volatile memory module SLC memory module	P	Plain and ordinary meaning		modules comprising "SLC non-volatile memory"	Plain and ordinary meaning. No construction necessary.
6	298:1, 11 385:1 240:1, 6 300:1, 3, 7, 12 546:1, 3 369:1, 3, 8 370:1, 11, 16-18 385:1, 11-13	"controller" adapted to perform its claimed functions "FTL" adapted to perform its claimed functions	K	Plain and ordinary meaning	35 U.S.C. § 112, ¶6 applies, indefinite for lack of disclosed structure		Plain and ordinary meaning, 35 U.S.C. § 112, ¶6 does not apply.

7	298:1 385:1 240:1, 6 300:1, 7, 12 546:1 612:1 369:1 370:1, 17-18	data integrity test	P	Plain and ordinary meaning		a test that compares stored data to retained data	Plain and ordinary meaning. No construction necessary.
8	300:1, 10, 12 546:1 612:1 369:1 370:1, 18	memory space	K, P	Plain and ordinary meaning	Indefinite		Plain and ordinary meaning.

#	Claim(s)	Terms	Id'd[1]	Vervain	Kingston	Phison	Preliminary
9	300:1, 12 546:1 369:1	controller…maintain…controlling…performing controller…maintain…controlling…transferring…performing…reading…comparing	P	Plain and ordinary meaning	Indefinite under *IPXL Holdings*		Plain and ordinary meaning. Not indefinite.
10	300:1, 3-4, 7-8, 12 546:1, 3-6 612:1, 3-6 369:1, 3-6 370:1, 4-5, 11, 14- 18	memory element	P	Plain and ordinary meaning		Indefinite	Plain and ordinary meaning. Not indefinite.

11	300:1, 12 546:1 612:1 369:1 370:1, 14-15, 18	stored data	K	Plain and ordinary meaning	received data that is stored in non-volatile memory	Plain and ordinary meaning.
12	300:1, 12 546:1 612:1 369:1	retained data	K	Plain and ordinary meaning	a copy of received data	Plain and ordinary meaning.
13	300:1, 12 546:1 612:1 369:1	the mapping is performed as necessitated by the...system to maximize lifetime	K, P	Not indefinite. Plain and ordinary meaning	Indefinite	Plain and ordinary meaning. Not indefinite.
14	300:1, 12	remapping...and transfer of data...to achieve enhanced endurance	K, P	Not indefinite. Plain and ordinary meaning	Indefinite	Plain and ordinary meaning. Not indefinite.