

1 Andrew G. Strickland (CA SBN: 272364)
2 Andrew.Strickland@leehayes.com
3 William B. Dyer III (*Pro Hac Vice*)
4 Bill.Dyer@leehayes.com
5 **LEE & HAYES, P.C.**
6 1175 Peachtree Street
100 Colony Square, Suite 2000
Atlanta, GA 30361
Tel: (404) 736-1925/Fax: (404) 815-1700

7 Marc E. Hankin (SBN: 170505)
8 Marc@HankinPatentLaw.com
9 Anooj Patel (SBN: 300297)
10 Anooj@HankinPatentLaw.com
11 **HANKIN PATENT LAW, APC**
4299 MacArthur Boulevard, Suite 100
Newport Beach, CA 92660
Tel: (949) 251-0898; Fax: (310) 979-3603

12 Attorneys for Plaintiff,
13 **MEMORY TECHNOLOGIES, LLC**

Christopher Kao (SBN 237716)
christopher.kao@pillsburylaw.com
Brock S. Weber (SBN 261383)
brock.weber@pillsburylaw.com
**PILLSBURY WINTHROP SHAW
PITTMAN LLP**
Four Embarcadero Center, 22nd Floor
San Francisco, CA 94111-5998
Tel: 415.983.1000; Fax: 415.983.1200

Christine Yang (SBN 102048)
chrisyang@sjclawpc.com
**LAW OFFICE OF S.J. CHRISTINE
YANG**
17220 Newhope Street, Suite 101-102
Fountain Valley, CA 92708
Tel: 714.641.4022; Fax: 714.641.2082

Attorneys for Defendants,
**KINGSTON TECHNOLOGY
CORPORATION,
and KINGSTON TECHNOLOGY
COMPANY, INC.**

16 **UNITED STATES DISTRICT COURT**
17 **CENTRAL DISTRICT OF CALIFORNIA**

18 MEMORY TECHNOLOGIES, LLC, a
19 Nevada company,

20 Plaintiff,

21 vs.

22 KINGSTON TECHNOLOGY
23 CORPORATION, a California
24 corporation, KINGSTON
TECHNOLOGY COMPANY, INC. a
25 Delaware corporation,

26 Defendants.

Case No. 8:18-cv-00171-JLS-JDE

**JOINT REPORT ON CLAIM
CONSTRUCTION ISSUES
FOLLOWING CLAIM
CONSTRUCTION HEARING**

27 **Memory Techs. Exhibit 2001**

1 Plaintiff Memory Technologies, LLC (“MTL” or “Plaintiff”) and Defendants
 2 Kingston Technology Corporation and Kingston Technology Company, Inc.
 3 (collectively, “Kingston” or “Defendants”) submit this Joint Report On Claim
 4 Construction Issues as directed by the Court during the February 12, 2019 Claim
 5 Construction Hearing.

6 On February 14, 2019, the parties met and conferred and agreed to narrow
 7 the issues in dispute for the claim terms below or agree to the claim constructions
 8 below.

9 **I. U.S. PAT. NO. RE45,542**

10 **A. “maximum power consumption [of / for] the peripheral device”**

11 The parties agree to the following claim construction for “maximum power
 12 consumption [of / for] the peripheral device”:

13 “a level of power consumption that the peripheral device adjusts its
 14 operational functions not to exceed.” (Claim Construction Hearing Tr., Feb. 12,
 15 2019, at 50:23-51:1.)

16 **II. U.S. PAT. NOS. 8,307,180; 9,063,850; 9,367,486**

17 **A. “predefined access profiles”**

18 While the parties have not agreed to a claim construction of “predefined
 19 access profiles,” they have narrowed the issues in dispute. The parties proposed
 20 constructions for “predefined access profiles” following the February 14, 2019
 21 meet and confer are:

MTL	Kingston
“mode, setting, control, or logic defined in advance corresponding to one or more types of reading, writing, modifying, deleting, or changing the attributes of the data that reside on the memory”	“mode, setting, control, or logic defined in advance for reading, writing, modifying, deleting, or changing the attributes of data”

1 As discussed during the Claim Construction Hearing, the remaining dispute
2 between their constructions of “predefined access profiles” is whether the “access
3 profiles” concern “attributes of data” (Kingston) or “attributes of data that reside
4 on the memory” (MTL). In other words, this dispute concerns whether the “access
5 profiles” relates to the memory device (Kingston), or the physical memory of the
6 memory device (MTL), as set forth in the parties’ briefing and argument at the
7 Claim Construction Hearing.

8 **B. “usage”**

9 The parties agree to the following claim construction for “usage”:

10 “usage by a host device.”

11 **C. “the memory device is configured according to the at least one 12 predefined access profile” / “how access to [said / the] memory device is configured”**

13 The parties agree that claim terms “the memory device is configured
14 according to the at least one predefined access profile” / “how access to [said / the]
15 memory device is configured” should be given their plain and ordinary meaning.

16 The parties agree that the plain and ordinary meaning of the claim terms will
17 be consistent with the Court’s claim construction of “predetermined access
18 profiles”—*i.e.*, if the Court finds that “predetermined access profiles” concern
19 “attributes of data that reside on the memory” (MTL), then “configured” will refer
20 to memory of the memory device, and if the Court finds that “predetermined
21 access profiles” concern “attributes of data” (Kingston), then “configured” will
22 refer to the memory device.

23 **III. ALL OTHER TERMS**

24 For all other terms in dispute, the parties did not reach agreement. The
25 parties request the Court to consider each party’s respective arguments and issue a
26 claim construction ruling. For the convenience of the Court, the remaining terms in
27 dispute are provided in Exhibit A to this Joint Report.

1 **IV. OTHER UPDATES**

2 The parties would also like to apprise the Court that Kingston has filed
3 petitions for *Inter Partes* Review (“IPR”) on all asserted claims of the eight
4 patents-in-suit. Kingston’s IPR petitions were filed during the period of January
5 29-31, 2019.

6 Kingston requests the Court’s guidance on whether it will entertain a motion
7 to stay pending IPR before the U.S. Patent and Trademark Office (“USPTO”)
8 enters Institution Decisions in the IPR proceedings. Kingston expects Institution
9 Decisions to start to be entered in approximately five-to-six months.

10 MTL would likely oppose any motion to stay that is filed before the USPTO
11 enters Institution Decisions.

12 Dated: February 26, 2019

LEE & HAYES P.C.

13 By: /s/ Andrew G. Strickland
14 Andrew G. Strickland (CA SBN 272364)
15 William B. Dyer III (*Pro Hac Vice*)
16 1175 Peachtree Street, NE
17 100 Colony Square, Suite 2000
18 Atlanta, GA 30361
Attorneys for Plaintiff,
MEMORY TECHNOLOGIES, LLC

19 Dated: February 26, 2019

**PILLSBURY WINTHROP SHAW
PITTMAN LLP**

20 By: /s/ Brock S. Weber
21 Christopher Kao (SBN 237716)
22 christopher.kao@pillsburylaw.com
23 Brock S. Weber (SBN 261383)
24 brock.weber@pillsburylaw.com
25 Four Embarcadero Center, 22nd Floor
26 San Francisco, CA 94111-5998
27 Tel: 415.983.1000 / Fax: 415.983.1200
Attorneys for Defendants,
**KINGSTON TECHNOLOGY
CORPORATION AND KINGSTON
TECHNOLOGY COMPANY, INC.**

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of February, 2019, the foregoing document was electronically filed with the Clerk of the Court for the UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA, using the Court’s Electronic Case Filing (ECF) system. The ECF system routinely sends a “notice of Electronic Filing” to all attorneys of record who have consented to accept this notice as service of this document by electronic means.

By: /s/Andrew G. Strickland
Andrew G. Strickland (CA SBN 272364)
Attorneys for Plaintiff
Email: andrew.strickland@leehayes.com

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.