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**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

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20 Dated: February 26, 2019

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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.

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