

THE HONORABLE JAMES L. ROBART

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

POLARIS POWERLED
TECHNOLOGIES, LLC,

Plaintiff,

v.

NINTENDO CO., LTD. and
NINTENDO OF AMERICA INC.,

Defendants.

Case No. 2:22-cv-00386-JLR

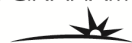
**DEFENDANTS' PRELIMINARY
CLAIM CONSTRUCTIONS AND
EXTRINSIC EVIDENCE**

Defendants Nintendo Co., Ltd. and Nintendo of America Inc. (collectively, "Nintendo") hereby provide their preliminary proposed constructions and extrinsic evidence.

As explained in prior correspondence and discovery responses, Plaintiff Polaris PowerLED Technologies, LLC's ("Polaris") preliminary infringement contentions—dated November 18, 2022—are materially deficient and non-compliant with the rules. Polaris failed to identify numerous claim elements, including failing to identify the claimed "brightness control circuit," "first input," "user signal," "input signal," "sensing signal," "sense signal," "multiplier," "selectively multiplying," "combined signal," "dark level bias," "brightness control signal," "predetermined level," and "adjusting" in the accused products. Even though Polaris claims to assert claims 1, 2, 7, 9, 15, and 16 ("asserted claims") of U.S. Patent No. 8,223,117,

**DEFS' PRELIM. CLAIM CONSTS.
AND EXTRINSIC EVID.
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Polaris has failed to establish any colorable claim of infringement. Polaris' failure to comply with the rules has hampered the parties' ability to investigate claims and defenses.

To the extent Polaris shifts, amends, or supplements its contentions, Nintendo reserves the right to amend and supplement its proposed terms, constructions, and extrinsic evidence. Nintendo also reserves the right to identify terms as indefinite should it become apparent (e.g., through claim construction, meeting-and-conferring, amendment to contentions, or further discovery) that terms as construed by Polaris render any claim indefinite.

Claim Term	Preliminary Proposed Construction and Extrinsic Evidence
"A brightness control circuit with selective ambient light correction comprising" (Claim 1) "A method to selectively provide ambient light correction, said method comprising" (Claim 15)	Preambles are not limiting ¹

¹ If the preambles are construed to be limiting, "selective" is indefinite, because it lacks reasonable certainty as to its full scope.

Claim Term	Preliminary Proposed Construction and Extrinsic Evidence
“first input configured to receive a user signal” (Claim 1) “second input configured to receive a selection signal” (Claim 9)	Parties’ apparent dispute is “signal”: “signal” means “a time-varying electrical quantity that can be used to transmit information” <i>The American Heritage College Dictionary</i> (4th Ed.) (2004) definition of “signal” (“3. <i>Electronics</i> An impulse or a fluctuating electric quantity, such as voltage, whose variations represent coded information.”) Alan Freedman, <i>The Computer Glossary</i> (4th Ed.) (1989) definition of “signal” (“A <i>signal</i> is the physical form of transmitted data, such as electrical pulses and frequencies, or light pulses and frequencies. Signal may refer to the transmission of only data, only control codes or both.”) <i>Microsoft Press Computer Dictionary</i> (5th Ed.) (2002) definition of “signal” (“1. Any electrical quantity, such as voltage, current, or frequency, that can be used to transmit information.”) <i>Newton’s Telecom Dictionary</i> (2001) definition of “signal” (“1. An electrical wave used to convey information.”) <i>Random House Webster’s College Dictionary</i> (2001) definition of “signal” (“5. an electrical quantity or effect, as current, voltage, or electromagnetic waves, that can be varied in such a way as to convey information.”) <i>Webster’s Third New International Dictionary</i> (2002) definition of “signal” (“[9c]: a detectable physical quantity or impulse (as a voltage, current, magnetic field strength) by which messages or information can be transmitted”)

Claim Term	Preliminary Proposed Construction and Extrinsic Evidence
“a multiplier configured to selectively generate a combined signal based on both the user signal and the sensing signal” (Claim 1) “selectively multiplying the input signal with a sense signal to generate a combined signal, wherein the sense signal indicates an ambient light level” (Claim 15)	Parties’ apparent dispute is “multiplier” / “multiply”, “selectively,” and “signal”: <i>See</i> above construction of “signal”; <i>see</i> below construction of “selectively” “multiplier” means “software algorithm or analog/mixed signal circuitry that combines multiple signals and outputs substantially zero if the user signal is about zero” “multiply” means “combine multiple signals and output substantially zero if the user signal is about zero” <i>The Authoritative Dictionary of IEEE Standards Terms</i> (7th Ed.) (2000) definition of “multiplier” (“(1) (general) A device that has two or more inputs and whose output is a representation of the product of the quantities represented by the input signals.”) <i>The Concise Oxford Dictionary</i> (10th Ed.) (1999) definition of “multiply” (“1 obtain from (a number) another which contains the first number a specified number of times.”) <i>McGraw-Hill Dictionary of Computing & Communications</i> (2003) definition of “multiplier” (“[ELECTR] 1. A device that has two or more inputs and an output that is a representation of the product of the quantities represented by the input signals; voltages are the quantities commonly multiplied.”) <i>Microsoft Press Computer Dictionary</i> (5th Ed.) (2000) definition of “multiplier” (“2. In computing, an electronic device independent of the central processing unit (CPU) that performs multiplication by adding the multiplicand according to the value of the digits in the multiplier.”) Mustafa A. Munem and David J. Foulis, <i>Algebra and Trigonometry with Applications</i> (New York: Worth Publishers, 1982), p. 4

Claim Term	Preliminary Proposed Construction and Extrinsic Evidence
“selectively generate” (Claim 1) “selectively operate” (Claim 9) “selectively multiplying” (Claims 15, 16)	“selectively” is indefinite, because it lacks reasonable certainty as to its full scope
“a dark level bias configured to adjust the combined signal to generate a brightness control signal that is used to control a brightness level of a visible display such that the brightness control signal is maintained above a predetermined level when the ambient light level decreases to approximately zero” (Claim 1) “dark level bias” (Claims 1, 2, 15) “adjusting the combined signal with a dark level bias to generate a brightness control signal ... such that the brightness control signal is maintained above a predetermined level when the ambient light level decreases to approximately zero” (Claim 15) “predetermined” (Claims 1, 15)	Parties’ apparent dispute is “bias,” “signal,” and “predetermined”: <i>See</i> above construction of “signal” “bias” means “voltage or current” “predetermined” means “minimum” <i>The American Heritage College Dictionary</i> (2004) (4th Ed.) definition of “bias” (“5. The fixed voltage applied to an electrode.”) <i>McGraw-Hill Dictionary of Computing & Communications</i> (2003) definition of “bias” (“[ELECTR] A direct-current voltage applied to a transistor control electrode to establish the desired operating point.”) <i>McGraw-Hill Dictionary of Scientific and Technical Terms</i> (5th Ed.) (1994) definition of “bias” (“[ELECTR] 1. A direct-current voltage applied to a transistor control electrode to establish the desired operating point.”) <i>Random House Webster’s College Dictionary</i> (2001) definition of “bias” (“4. the application of a steady voltage or current to an active device, as a diode or transistor, to produce a desired mode of operation.”) <i>Webster’s Third New International Dictionary</i> (2002) definition of “bias” (“6: an unvarying component of the electric potential difference between a given element of an electron tube and the cathode”)

Nintendo’s investigation in this matter is continuing. Nintendo reserves the right to modify its preliminary proposed claim constructions, as well as to modify, add, or delete terms and

1 constructions, based on, without limitation, the constructions proposed by Plaintiff,
2 information learned in the course of meeting-and-conferring, information learned through the
3 course of discovery or other means, and any changes or amendments to the parties'
4 preliminary infringement or invalidity contentions. With respect to extrinsic evidence, Nintendo
5 may rely on the testimony of Mark Horenstein regarding the understanding of a POSITA for the
6 disputed terms, indefiniteness, and background, as described above.
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1 Dated: January 12, 2023

/s/ Matthew J. Brigham

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CERTIFICATE OF SERVICE

I hereby certify that on this date, I caused true and corrected copies of the foregoing document(s) to be served upon the following, at the addresses below, via Email:

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Dated January 12, 2023, in Newark, California.



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