

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

AMERICAN GNC CORPORATION,

Plaintiff,

v.

ONEPLUS TECHNOLOGY (SHENZHEN)
CO., LTD.,

Defendant.

Civil Action No. 6:20-cv-00171-ADA

AGNC'S OPENING CLAIM CONSTRUCTION BRIEF

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I. Introduction and Background of the Patents

Plaintiff American GNC Corporation (“AGNC”), founded in 1986, specializes in inventing advanced and innovative technologies to solve problems within the fields of guidance, navigation, control and communications. AGNC has received numerous contracts from both the Department of Defense sector and NASA.¹ AGNC has obtained more than 79 patents. Phones and their navigation applications now commonly use AGNC’s patented solutions. AGNC’s four patents-in-suit are 6,311,555, 6,508,122, 6,671,648 and 6,697,758. Exhibit 1 provides additional background for understanding the inventions claimed. *See*, e.g., Ex. 1 at ¶¶ 8-23. OnePlus did not disclose any expert or provide any POSITA declaration supporting any of its proposals.

II. Agreed Claim Terms

AGNC and OnePlus agreed to the construction of three terms/phrases proposed by OnePlus for construction. *See* Ex. 14 at 4-5 and Ex. 15 at 2. Those terms and the agreed to constructions are:

Term/phrase identified by OnePlus	Parties’ Agreed Construction
“producing angular motion-induced signals with respect to said vehicle angular rate and inertial element dither motion signals” (U.S. Pat. No. 6,311,555 – claim 49)	If construed, producing (1) angular motion-induced signals with respect to said vehicle angular rate and (2) inertial element dither motion signals.
“ digital element displacement signals with predetermined phase” (U.S. Pat. No. 6,311,555 – claim 49)	If construed, “digital” means “not analog; as opposed to analog.”
“ digital low frequency inertial element displacement signals ” (U.S. Pat. No. 6,508,122 – claim 1)	If construed, “digital” means “not analog; as opposed to analog.”

¹ Ching-Fang Lin, a named inventor, founded AGNC and held a PhD. in computer, information, and control engineering; he introduced over 30 products and received NASA Space Act Award Recognition for Inventions and Scientific and Technical Exceptional Contributions.

III. Disputed Claim Terms

1. “vehicle” (’555 pat. claim 49)

AGNC’s Proposed Construction	OnePlus’ Proposed Construction
plain and ordinary meaning if construed: “a means of carrying or transporting something”	“a device or structure capable of being propelled to transport persons or goods, such as a motor vehicle”

“Vehicle” is a commonly used English word that both POSITAs and the jury will understand without requiring the Court to define it.²

The threshold requirement for construing a term is showing some ambiguity in the claim language. *E.g., Liquid Dynamics Corp. v. Vaughan Co., Inc.*, 355 F.3d 1361, 1367 (Fed. Cir. 2004). Although there is no ambiguity, among other things, OnePlus seeks to add the requirement that the vehicle is “capable of being propelled,” which the intrinsic evidence nowhere supports. There is also no extrinsic support for it.

If the Court determines that construction is necessary, AGNC’s proposed construction reflects the plain and ordinary meanings in the dictionaries, including those contemporaneous to the filing date of the patented invention (1999). These definitions include:

Definition	Source
“2: an agent of transmission: CARRIER” “4: a means of carrying or transporting something as a: MOTOR VEHICLE b: a piece of mechanized equipment”	Ex. 5, Merriam-Webster’s Collegiate Dictionary 10th Edition, 1999

² There is a “heavy presumption” that a claim term has its plain and ordinary meaning as one of ordinary skill would have understood it at the time of the patent filing. *CCS Fitness, Inc. v. Brunswick Corp.*, 288 F.3d 1359, 1366 (Fed. Cir. 2002). In some cases, “the ordinary meaning of claim language as understood by a person of skill in the art may be readily apparent even to lay judges, and claim construction in such cases involves little more than the application of the widely accepted meaning of commonly understood words.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1314 (Fed. Cir. 2005).

Definition	Source
“Any means in or by which someone or something is carried or conveyed: <i>a motor vehicle</i> ”	Ex. 4, Random House Webster’s College Dictionary, 1991, revised 1997, updated edition 2005 ³
“1. Any means in or by which someone or something is carried or conveyed: <i>a motor vehicle</i> ”	Ex. 6, Random House Kernerman Webster’s College Dictionary 2010

These dictionary definitions are consistent with the intrinsic evidence in the specification.

The ’555 patent describes its field of invention as:

The present invention relates to an angular rate producer, and more particularly to an angular rate producer with microelectromechanical system (MEMS) technology to measure *vehicle* angular rate.

Ex. 7 at 1:8-11. Within that field, the ’555 patent specification discloses “typical applications” for measuring “vehicle angular rate” that include:

automobiles, railway vehicles, miniature land vehicles, robots, unmanned ground vehicles, personal navigators, and military land vehicles.

Ex. 7 at 12:55-58 (emphasis added). Those of skill in the art in the 1999 timeframe knew, used, and understood the definitions reflected in these dictionaries, and after reading the specification, would have understood “vehicle” consistent with its ordinary meaning. Ex. 1 at ¶¶ 40-41.

In a prior case, defendant LG’s expert, Scott Andrews (a POSITA), agreed with AGNC that a “vehicle” is a “conveyance that is used to transport or move things.” Ex. 2 at 74:5-7. He opined that a “vehicle carries something else other than itself” and that the plain and ordinary meaning of a vehicle is “a mobile thing for carrying other things.” *Id.* at 75:22-23, 81:12-13. He did not disagree with any of the dictionary definitions above and opined that the definition “any means by way someone or something is carried or conveyed” is “very reasonable” and “common” and “a reasonable common meaning.” *Id.* at 77:12-78:3, 80:25-81:6. He also opined

³ This dictionary provides “Common Meanings First To Find The Right Meaning Faster.” Ex. 4 at 1. AGNC relies on the first, and most common, meaning.

that “means of carrying or transporting something” was “a reasonable definition” and “a known definition.” *Id.* at 85:1-15.

Despite this, OnePlus’s proposed construction seeks to limit the term “vehicle” to require that it must be “capable of being propelled.” OnePlus relies on a definition from one of the three dictionary sources OnePlus identified that includes “propelled”: “[a] ***self-propelled*** conveyance ***that runs on tires; a motor vehicle.***”⁴ Compare Ex. 3 (emphasis added) with Exs. 8 and 10. Not only is this definition narrower than other common definitions of “vehicle”, but this definition’s requirement that a “vehicle” “runs on tires” excludes exemplary vehicles identified in the ’555 specification: “railway vehicles ... unmanned ground vehicles... and military land vehicles” that may not run on tires. Ex. 7 at 12:55-58. OnePlus’ dictionary definitions from the other dictionaries identified by it do not support its proposed construction. More importantly, there is nothing in the claim (or the specification or the file history) that would support the “capable of being propelled” limitation. The court should consider the extrinsic dictionary evidence in the context of the intrinsic evidence and may not use it to arrive at a claim construction that contradicts the construction mandated by the intrinsic evidence. *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1583-84 (Fed. Cir. 1996).

OnePlus also proposes the additional requirements that “vehicle” must be limited to a “device or structure” and is “capable of being propelled ***to transport persons or goods.***”⁵ These proposed requirements add ambiguity and confusion and lack any basis in the intrinsic evidence. There is no ambiguity in “vehicle” that requires construction.

⁴ That only one OnePlus identified definition features “propelled” confirms that that definition is not a common definition for “vehicle”.

⁵ Similar to the “capable of being propelled” requirement, only one definition from the three dictionary sources OnePlus identified states that “vehicle” must be limited to a “device or structure”. Compare Ex. 3 with Exs. 8 and 10.

2-3. “dither drive signal” (’555 pat. claim 49) and “dither driver signals” (’122 pat. claim 1)

Term	Patent and Claim	AGNC’s Proposed Construction	OnePlus’ Proposed Construction
dither driver signals	’122 pat. claim 1	signals used to oscillate, or vibrate, an inertial element, in the angular rate <i>sensor</i> unit	continuous or periodical electrical signal, such as voltage, with predetermined frequency and amplitude to keep inertial elements oscillating with a constant momentum
dither drive signal	’555 pat. claim 49	signal used to oscillate, or vibrate, <i>at least one set of</i> inertial elements in the angular rate <i>detecting</i> unit	same as OnePlus’ proposal above

In general, gyroscopes measure rotational motion. A MEMS gyroscope is a sensor that measures angular velocity, i.e. the rate of rotation. A MEMS vibratory gyroscope uses a vibrating structure to determine the rate of rotation. Inside the gyroscope, inertial elements vibrate (also called oscillate or dither) in one plane. When the inertial elements are oscillating, they will displace in a perpendicular plane to the plane in which they are oscillating/dithering when angular rotation is experienced due to the Coriolis effect. Sensing this displacement in the plane perpendicular to the oscillating/dithering plane allows the gyroscope to output the angular rate. Ex. 1 at ¶¶ 8-20, 24-37. Mr. Messenger explained that, at a general level, the drive signals (e.g., dither driver signals and dither drive signal) are responsible for the dither motion (vibration or oscillation) of the inertial element(s). Ex.1 at ¶¶ 14, 17.

This is what the specifications’ disclosures teach. For example, the ’122 specification teaches:

The micromachined sensor unit 10 consists of two vibration devices which have opposite dither motion directions.

Ex 9, ’122 pat., 4:65-66. Further:

Two vibrating proof masses are attached by springs to each other and to the surrounding stationary material. The vibrating (dither) proof masses are driven in opposite directions by electrostatic comb drive motors to maintain lateral in-plane oscillation. The dither motion is in the plane of the wafer. When an angular rate is applied to the MEMS device about the input axis (which is in the plane of the tines), the proof masses are caused to oscillate out of plane by a Coriolis force due to the Coriolis effect.

Ex 9, '122 pat., 5:6-14. The specification discloses this example:

A microelectromechanical system (MEMS) *for measuring angular rates* of a carrier of the present invention comprises:

1. an angular rate sensor unit **10**, *for receiving a dither driver signals*, capacitive pickoff excitation signals and displacement restoring signals to output angle rate signals in response to the motion of the carrier and dither motion signals;
2. a central circuitry **20**, for receiving the angle rate signals in response to the motion of the carrier *and dither motion signals to output angular rate signals* and digital low frequency inertial element displacement signals;
3. a digital signal processing system **30**, for analyzing digital low frequency inertial element displacement signals to *feed back the dither drive signals to the angular rate sensor unit 10*.

Ex 9, '122 pat., 4:31-48. Based on the specification, AGNC has proposed to construe both terms as a signal(s) used to oscillate, or vibrate, an inertial element(s), with additional details below as required by the details of the two different claims.

a) “dither driver signals” in the '122 patent claim 1

AGNC's proposed construction is the result of the meaning in the claim itself. Claim 1 of the '122 patent recites in part:

an angular rate sensor unit receiving dither driver signals, capacitive pickoff excitation signals and a displacement restoring signal and outputting angle rate signals in response to motion of said carrier and dither motion signals;

...

a digital signal processing system analyzing said digital low frequency inertial element displacement signals and *feeding back said dither driver signals to said angular rate sensor unit*

For that reason, AGNC has proposed that the construction of “dither driver signals” is “signals used to oscillate, or vibrate, an inertial element, *in the angular rate sensor unit.*”⁶

OnePlus proposes to add at least three additional requirements not present in the asserted ’122 patent claim. First, OnePlus proposes to add in the requirement of “constant momentum.” This requirement is in ’555 patent claim 49 but it is not in the ’122 patent claim.

Next, OnePlus proposes to add in characteristics from example embodiments from the ’555 patent specification into the ’122 patent claim as two additional requirements: (1) that the signal be “continuous or periodical” and (2) that the signal have “predetermined frequency and amplitude.” Although this term is in the ’122 patent, OnePlus must rely on the *’555 patent* specification’s disclosure of one “*objective*” (of several) for the inventions from the *’555 patent*:

Another objective of the present invention is to provide an angular rate producer with microelectromechanical system (MEMS) technology for measuring vehicle angular rate, which comprises:

a digital processing system for outputting dither drive energy which is a kind of *continuous or periodical electrical signal*, such as voltage, *with predetermined frequency and amplitude* . . .

Ex. 7 at 2:35-43. This description of the “objective” discusses “dither drive energy.” “Energy” and “signal” are not the same; to impose this description as a definition would be non-sensical.

Limiting the claims by importing limitations from the specification, including those from one disclosed objective for some of the inventions in a patent, is legally improper. *See, e.g. Kara Tech., Inc. v. Stamps.com, Inc.*, 582 F.3d 1341, 1348 (Fed. Cir. 2009) (claims should not be interpreted by importing limitations from the specification into the claims.). *See also EPOS*

⁶ LG’s expert agreed that a POSITA would understand that a “dither drive signal” “would be a signal that would be being used to cause the proof masses to dither.” Ex. 2 at 64:25-65:3; *see also* 70:23-71:4 (calling AGNC’s proposed construction “reasonably descriptive.”).

Techs. Ltd. v. Pegasus Techs. Ltd., 766 F.3d 1338, 1341 (Fed. Cir. 2014). (“[I]t is improper to read limitations from a preferred embodiment described in the specification...into the claims absent a clear indication in the intrinsic record that the patentee intended the claims to be so limited.”). Here, the proposal is worse because the further limitations come from a different patent’s specification and are not in the ’122 patent.

OnePlus’ proposals to include “such as voltage” and “predetermined” will only confuse the jury. For example, “predetermined” begs the question when exactly must the frequency and amplitude be determined. Therefore, this Court should adopt AGNC’s proposed construction.

b) “dither drive signal” in the ’555 patent claim 49

The ’555 patent’s claim 49 recites:

- (a) receiving *dither drive signal* to maintain an oscillation of *at least one set of inertial elements* in an angular rate detecting unit with constant momentum, and producing angular motion-induced signals with respect to said vehicle angular rate and inertial element dither motion signals;
- (b) converting said angular motion-induced signals from said angular rate detecting unit in an interfacing circuitry into consistent and repeatable angular rate signals that are proportional to said vehicle angular rate, and converting said inertial element dither motion signals from said angular rate detecting unit in said interfacing circuitry into digital element displacement signals with predetermined phase; and
- (c) inputting said digital element displacement signals into a digital processing system and producing said *dither drive signal* for locking high-quality factor frequency and amplitude of said oscillating inertial elements *in said angular rate detecting unit*.

To account for the different context of the ’555 patent claim, AGNC has proposed to construe “dither drive signal” as a “signal used to oscillate, or vibrate, *at least one set of* inertial elements in the angular rate *detecting* unit.”

In the different context of the ’555 patent, AGNC agrees that the portion of OnePlus’ proposed construction relating to the requirement of “constant momentum” is consistent with the

claim. However, given that the term for construction is only “dither drive signal” and not the whole phrase, and given that the rest of the claim phrase already explicitly recites it, AGNC does not believe the element needs to be re-stated in the claim construction for “dither drive signal.”

As AGNC explained above, OnePlus’ proposed additional requirements, here, that (1) that the signal be “continuous or periodical” and (2) that the signal have “predetermined frequency and amplitude” represent an improper request to read in “objectives” from the specification into the claims, as two additional requirements.⁷ ’555 patent claim 49 does disclose “producing said dither drive signal for locking high-quality factor *frequency and amplitude* of said oscillating inertial elements in said angular rate detecting unit,” but the claim does not require “*predetermined* frequency and amplitude.” As above, “predetermined” begs the question when exactly must the frequency and amplitude be determined and will only confuse the jury.

Therefore, OnePlus’ proposed construction should be rejected and AGNC’s proposed construction should be adopted.

4. “consistent and repeatable angular rate signals that are proportional to said vehicle angular rate” (’555 patent claim 49)

AGNC’s Proposed Construction	OnePlus’ Proposed Construction
Plain and ordinary meaning to one of skill in the art at the time of invention.	Indefinite

A patent is invalid for indefiniteness only if “its claims, read in light of the specification delineating the patent, and the prosecution history, fail to inform, with reasonable certainty, those skilled in the art [at the time the patent was filed] about the scope of the invention. . . .” *Nautilus*,

⁷ OnePlus also ignores that “dither drive signal” in the ’555 patent is singular, while the “dither driver signals” term in the ’122 patent is plural. Despite this difference, OnePlus proposes that both terms are construed with the identical definition that is plural.

Inc. v. Biosig Instruments, Inc., 572 U.S. 898, 901 (2014). Indefiniteness is an issue of law based on findings of fact. *Guangdong Alison Hi-Tech Co. v. International Trade Commission*, 936 F.3d 1353, 1359 (Fed. Cir. 2019). OnePlus is effectively arguing for summary judgment of invalidity of claim 49 of the '555 Patent, the only asserted claim where this claim phrase appears. On summary judgment, a court “must draw all reasonable inferences in favor of the nonmoving party, and avoid credibility determinations and weighing of the evidence,” and must “view[] all facts and evidence in the light most favorable to the nonmoving party.” *Nall v. BNSF Ry. Co.*, 917 F.3d 335, 340 (5th Cir. 2019). OnePlus must overcome the presumption of validity by clear and convincing evidence. *Biosig Instruments, Inc. v. Nautilus, Inc.*, 783 F.3d 1374, 1377 (Fed. Cir. 2015).

Because OnePlus bears the burden of proof by clear and convincing evidence, and § 112 and *Nautilus* both require consideration of the view of the POSITA, given that OnePlus has provided no view of any POSITA to support its position, it cannot meet its burden. In these circumstances, this alone is dispositive. *See, e.g. Lecat's VentriloScope v. MT Tool & Mfg.*, 351 F. Supp. 3d 1100, 1114 (N.D. Ill. 2018) (“Because this garden-variety theory of indefiniteness ‘requires a determination whether those skilled in the art would understand what is claimed,’ *Spansion, Inc. v. Int'l Trade Comm'n*, 629 F.3d 1331, 1344 (Fed. Cir. 2010) (citation omitted), the Court concludes that expert testimony is necessary. Because Defendant has no expert to testify as to the indefiniteness of this term, Plaintiff's motion is granted as to this aspect of Defendant's defense of indefiniteness.”). The Federal Circuit has reversed indefiniteness determinations where the record did not contain any POSITA view supporting it. For example, in *Elcommerce.com, Inc. v. SAP AG*, defendant SAP presented no evidence regarding whether one of skill in the field of the invention would know and understand the claim limitation. 745

F.3d 490, 505-506 (Fed. Cir. 2014) (vacated on other grounds). The Federal Circuit vacated the invalidity holding and explained: “The burden was on SAP to prove its case, and in the absence of evidence provided by technical experts who meet the Daubert criteria there is a failure of proof. Attorney argument is not evidence.” *Id.* at 506. As another example, in *BASF Corp. v. Johnson Matthey Inc.*, 875 F.3d 1360 (Fed. Cir. 2017), the record was one-sided in favor of definiteness. In fact, the *BASF* record was stronger for the defendant than for OnePlus here, because *BASF* offered an expert opinion. Nonetheless, the Federal Circuit reversed on indefiniteness because:

BASF’s expert declared, with explanation, that “one of ordinary skill in the art would be reasonably certain as to what falls within the scope of the material compositions in the disputed terms.” J.A. 1322. And Johnson’s expert, Dr. Epling, did not provide substantial evidence to the contrary.

Id. at 1366. As a result, the record lacked “persuasive support for the necessary conclusion that a relevant skilled artisan would lack reasonable certainty. . . .” *Id.* at 1367. Similarly, here, an indefiniteness holding would require determining that a POSITA would not be informed, with reasonable certainty, about the scope of the invention. However, OnePlus has no evidence to support this.

Beyond that, here, both “consistent” and “repeatable” have plain and ordinary meanings: “consistent” means done in the same way over time and “repeatable” means able to be done again. E.g. Ex. 1 at ¶¶ 59-60 and Ex. 13. In the context of the claim, together these words mean that when the object (e.g. phone in a car) is experiencing the same angular rotation (e.g. same inputs), the signal’s proportion to the vehicle’s angular rate is the same every time it cycles through and takes another measurement at the predetermined time cycle. Ex. 1 at ¶¶ 62-63. This is what the relevant portion of ‘555 patent claim 49 recites:

An angular rate producing process for measuring a vehicle angular rate, comprising the steps of:

(b) converting said angular motion-induced signals from said angular rate detecting unit into **consistent and repeatable angular rate signals that are proportional to said vehicle angular rate**, and converting said inertial element dither motion signals from said angular rate detecting unit into digital element displacement signals with predetermined phase;

(c) inputting said digital element displacement signals into a digital processing system and producing said dither drive signal for locking high-quality factor frequency and amplitude of said oscillating inertial elements in said angular rate detecting unit.

OnePlus’ argument ignores the important fact that the claim specifies that the consistent and repeatable angular rate signals “are proportional to said vehicle angular rate.” This means that when the vehicle has the same “vehicle angular rate” the signal will be in consistent proportion to the vehicle angular rate in each cycle of the measurement. Ex. 1 at ¶ 62. The claim itself inherently requires an objective mathematical relationship.⁸

OnePlus’ argument implies that any time an adjective appears in a claim, the claim is likely indefinite. This is not the law. When the context of the claim itself makes the meaning of the term sufficiently clear, the claim is not indefinite. For example, in *Trover Group, Inc. v. Tyco Int’l, Ltd.*, No. 2:13–CV–52, 2014 WL 3736340, at *9 (E.D. Tex. July 28, 2014), claim 5 of U.S. Patent 5,751,346 recited, in relevant part:

(d) comparing said temporary image with said new digitized image on a pixel basis to determine the number of pixels in corresponding locations in the two digitized images which have ***amplitudes that are different***,

⁸ The prosecution history provides further evidence that these terms are sufficiently definite because the examiner did not express any uncertainty as to the scope of “consistent and repeatable.” In *Sonix Tech. Co.*, 844 F.3d at 1380-81, the Federal Circuit panel considered the examiner’s ability to understand the challenged term during prosecution as evidence of sufficient definiteness. Here, the examiner had no trouble understanding the terms, expressed no uncertainty as to them, and issued a Notice of Allowance. Ex. 16, June 13, 2001 Notice of Allowance, p. 2.

(e) comparing said determined number of different pixels with a reference number to establish if said determined number of pixels exceeds said reference number. . .

Judge Bryson rejected the indefiniteness argument and explained:

Although the term “amplitude” is used only in the claims and is not defined or discussed in the specification, the Court does not find it to be indefinite. To the contrary, the context makes the meaning of the term sufficiently clear to ensure that the term is not so indefinite as to invalidate the claims in which it appears.

As another example, in *Solocron Media, LLC v. Verizon Commc'ns Inc.*, No. 2:13-CV-1059-JRG-RSP, 2015 WL 1011310, at *27 (E.D. Tex. Mar. 5, 2015), the claim recited:

an ***enhanced performance speaker*** capable of providing a substantially full range of audio sounds from the selected polyphonic audio file when the selected polyphonic audio file is played.

Defendants’ expert argued that “enhanced” is “an inherently imprecise and subjective term” and that “[d]escribing speaker performance by specifically enumerated objective performance parameters is widely accepted in the engineering community.” The Court rejected the indefiniteness argument and explained:

the term “enhanced performance speaker” is defined in the claims in which it appears as being “capable of providing a substantially full range of audio sounds.

As another example, in *Cioffi v. Google Inc.*, No. 2:13-CV-103-JRG-RSP, 2014 WL 4293978, at *19 (E.D. Tex. Aug. 28, 2014), rev’d on other grounds, 632 F. App’x 1013 (Fed. Cir. 2015), the claim recited:

an **intelligent cellular telephone capability** with a secure web browser including a first web browser process and a second web browser process;

The plaintiff argued that “the term ‘intelligent cellular telephone capability’ is defined in the claim itself” and that the term refers to “the capability a device receives with a secure web browser, including a first and second web browser process.” *Id.* at *15. Defendants argued that the specification did not use or define the term. That court rejected the indefiniteness argument:

On balance, the best reading of the claim language ... is that the “intelligent cellular telephone capability” is provided by the use of “a secure web browser including a first web browser process and a second web browser process,” as recited in the claims. The surrounding claim language thus renders the scope of the disputed term ‘reasonabl[y] certain[]’.

Id. at *19.

Here, “consistent” and “repeatable” do not depend on subjective opinions. *See, e.g. Interval Licensing LLC v. AOL, Inc.*, 766 F.3d 1364, 1370 (Fed. Cir. 2014) (addressing the claim term “unobtrusive manner”). When a claim term “depend[s] solely on the unrestrained, subjective opinion of a particular individual purportedly practicing the invention,” without sufficient guidance in the specification to provide objective direction to one of skill in the art,” the term is indefinite. *Datamize, LLC v. Plumtree Software, Inc.*, 417 F.3d 1342, 1350 (Fed. Cir. 2005) (finding “aesthetically pleasing” to be indefinite because the specification lacked any objective definition of the term). “Consistent” and “repeatable” have nothing to do with a person’s subjective taste or opinion. *See Sonix Tech. Co. v. Publications Int’l, Ltd.*, 844 F.3d 1370, 1378 (Fed. Cir. 2017) (discussing “visually negligible” and distinguishing instances of taste and opinion from the term found not indefinite in that case).

“Consistent and repeatable” in this claim is also not a “term of degree.” Most such cases involve terms of extent, level, or degree, such as “minimally,” “substantially,” and “approximately.” *See, e.g., Berkheimer v. HP Inc.*, 881 F.3d 1360, 1364 (Fed. Cir. 2018) (“minimal”); *3M Innovative Properties Co. v. Tredegar Corp.*, 725 F.3d 1315, 1339 (Fed. Cir. 2013) (“substantially”); *Immersion Corp. v. Samsung Elecs. Am., Inc.*, No. 2:17-CV-572-JRG, 2018 WL 5005791, at *16 (E.D. Tex. Oct. 16, 2018) (“approximately”). “Consistent and repeatable angular rate signals that are proportional to said vehicle angular rate” is not like cases where the term of degree modifies another term without guidance on how close one had to be to

satisfy the term. *Compare Cypress Lake Software, Inc. v. Samsung Elecs. Am., Inc.*, 382 F.Supp.3d 586 (E.D. Tex. 2019) (where the disputed term was “more convenient.”).⁹

The present terms present a contrast to these cases. The actual language of the claim is different, mandating what is required: “consistent and repeatable angular rate signals that are proportional to said vehicle angular rate.”

5. “capacitive pickoff excitation signals” (’122 pat. claim 1)

AGNC’s Proposed Construction	OnePlus’ Proposed Construction
“electrical signals that provide electrical energy (i.e. excitation) into the angular rate sensor unit’s pickoff capacitors”	“reference signals from an oscillator applied to the angular rate sensor unit’s pickoff capacitors”

Claim 1 of the ’122 recites that the claimed angular rate sensor unit receives three different signals:

an angular rate sensor unit receiving dither driver signals, capacitive pickoff excitation signals and a displacement restoring signal and outputting angle rate signals in response to motion of said carrier and dither motion signals;

As discussed above, the “dither driver signals” cause the inertial element(s) of the MEMS vibratory gyroscope to oscillate (i.e. dither or vibrate) back and forth in one plane. When the gyroscope undergoes angular rotation, the inertial element(s) will displace in a perpendicular plane. Measuring this perpendicular displacement allows the gyroscope to output the angular rate of the rotation. The displacement of the oscillating inertial elements is measured or sensed (e.g., picked off) by capacitive pickoffs. That is, the capacitance change is picked off (sensed)

⁹ Even if found to be terms of degree, the Federal Circuit has rejected the proposition that claims involving terms of degree are inherently indefinite where the claims and specification describe the boundaries. *Sonix Tech. Co., Ltd.*, 844 F.3d at 1377. Further, the Supreme Court and Federal Circuit have long held that terms like “consistent” or “repeatable” can comply with the definiteness requirement without specifying mathematical precision; no numerical value for the magnitude is required. For example, in *Sonix Tech. Co., Ltd.*, 844 F.3d at 1377, the Federal Circuit held “visually negligible” to be sufficiently definite.

by the pickoff capacitors. In order for the capacitors to be able to pick off the change in capacitance due to the displacement of the inertial element(s), they must receive excitation from a signal: the “capacitive pickoff excitation signals.”

The only two record views from those of skill in the art, prior defendant LG’s expert and AGNC’s expert Messenger, both agreed that in this claim, the phrase “capacitive pickoff excitation signals” means signals applied to determine the change in capacitance and that, consistent with the claim words themselves, the signals excite capacitive pickoffs. Ex. 2 at 42:1-46:7; Ex. 1 at ¶¶ 28, 33. Mr. Messenger explained that a POSITA would read and understand the term “capacitive pickoff excitation signals” to mean “electrical signals that provide electrical energy (i.e. excitation) into the angular rate sensor unit’s pickoff capacitors.” Ex. 1 at ¶¶ 28-29.

The specification explains that the oscillating inertial elements will displace out of plane (i.e. in a perpendicular plane) due to the Coriolis effect experienced during angular rotation and that capacitive pickoff plates (e.g. the plates of the pickoff capacitors) that are underneath the proof masses (inertial elements) measure the resulting change in capacitance:

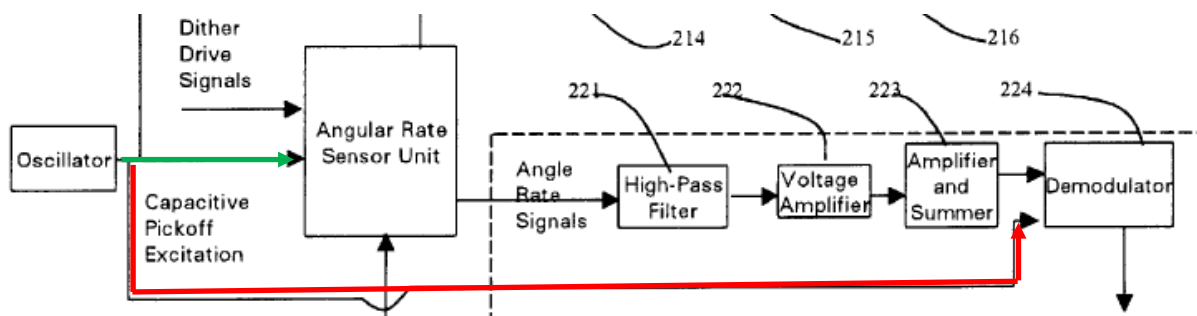
Two vibrating proof masses are attached by springs to each other and to the surrounding stationary material. The vibrating (dither) proof masses are driven in opposite directions by electrostatic comb drive motors to maintain lateral in-plane oscillation. The dither motion is in the plane of the wafer. When an angular rate is applied to the MEMS device about the input axis (which is in the plane of the tines), the proof masses are caused to oscillate out of plane by a Coriolis force due to the Coriolis effect. **The resulting out-of-plane up and down oscillation motion amplitude, proportional to the input angular rate, is detected and measured by capacitive pickoff plates underneath the proof masses.**

Ex. 9, ’122 pat., 5:6-18.

At Figure 6, the specification discloses one example embodiment in which “an oscillator” provides “capacitive pickoff excitation signals”. The specification describes Figure 6 as including:

a demodulator circuit **214**, connected to the high-pass filter circuit **213**, for receiving the capacitive pickoff excitation signals as phase reference signals from an oscillator and the filter dither displacement differential signal from the first high-pass filter, and extracting the in-phase portion of the filtered dither displacement differential signal to produce an inertial element displacement signal with known phase;

Ex. 9, '122 pat., 8:19-26. However, in this example description, the capacitive pickoff excitation signals are also used as phase reference signals for the Demodulator block (depicted with the red arrow annotation in Figure 6):



Ex. 9, '122 pat., Fig. 6 (colors not in patent, added for clarity in this brief). However, in claim 1, all that is required of the “capacitive pickoff excitation signals” is that they are received by the Angular Rate Sensor Unit (depicted with the green arrow annotation in Figure 6 above). *See also* Ex. 1 at ¶¶ 31-32.

Based on this one example from the specification, OnePlus proposes to read in additional requirements not present into independent claim 1, and in conflict with it.

First, OnePlus proposes to require that the signal must also be a “reference signal,” which would require this same signal to serve a second purpose, i.e. acting as a reference for a different component (e.g. a demodulator). OnePlus impermissibly seeks to import limitations from dependent claim 5 into independent claim 1. Dependent claim 5 recites what is not in claim 1: “a demodulator circuit, which is connected to said first high-pass filter circuit, receiving said capacitive pickoff excitation signals *as phase reference signals from an oscillator.*” “It is settled

law that when a patent claim does not contain a certain limitation and another claim does, that limitation cannot be read into the former claim in determining either validity or infringement.” *SRI Int’l v. Matsushita Elec. Corp. of Am.*, 775 F.2d 1107, 1122 (Fed. Cir. 1985); *Comark Commc’ns, Inc. v. Harris Corp.*, 156 F.3d 1182, 1187 (Fed. Cir. 1998) (holding that proposed construction of claim 1 that sought to import a limitation from claim 2 would violate the doctrine of claim differentiation by rendering claim 2 superfluous); *Home Diagnostics, Inc. v. LifeScan, Inc.*, 381 F. 3d 1352, 1357-58 (Fed. Cir. 2004) (broad meaning of claim term demonstrated by other patents in the family more narrowly claiming details of a disclosed embodiment).

Second, OnePlus seeks to limit the source of the signal to an “oscillator.” The claim does not require that the source of a signal is limited to an “oscillator.” For this proposed addition, OnePlus apparently relies on the example in Figure 6 and the description of that figure in the section “Detailed Description of the Preferred Embodiment” which discloses:

receiving the capacitive pickoff excitation signals as phase reference signals from an oscillator

Ex. 9, ’122 pat. at 8:20-22. Claims are not to be limited to the preferred embodiments.

The Federal Circuit has “expressly rejected the contention that” even when “a patent describes only a single embodiment, the claims of the patent must be construed as being limited to that embodiment.” *Cont’l Circuits LLC v. Intel Corp.*, 915 F.3d 788, 797 (Fed. Cir.), *cert. denied*, 140 S. Ct. 648, 205 L. Ed. 2d 390 (2019) (concluding that disclosing only the Probelec XB 7081 embodiment, without more, does not result in a clear disavowal of claim scope); *see also Liebel-Flarsheim Co. v. Medrad, Inc.*, 358 F.3d 898, 906 (Fed. Cir. 2004) (“Even when the specification describes only a single embodiment, the claims of the patent will not be read restrictively unless the patentee has demonstrated a clear intention to limit the claim scope using ‘words or expressions of manifest exclusion or restriction.’” (quoting *Teleflex, Inc. v. Ficosa N.*

Am. Corp., 299 F.3d 1313, 1327 (Fed. Cir. 2002)); *ACTV, Inc. v. Walt Disney Co.*, 346 F.3d 1082, 1091 (Fed. Cir. 2003) (concluding specification lacked an indication of the patentee’s clear intent to limit the scope of invention and declining to impose a limitation from the specification into the claim); *Apex Inc. v. Raritan Computer, Inc.*, 325 F.3d 1364, 1377 (Fed. Cir. 2003) (holding that it is not the law that when a patent does not teach any alternative, the patent must be limited to the one embodiment); *Altiris, Inc. v. Symantec Corp.*, 318 F.3d 1363, 1372-73 (Fed. Cir. 2003) (holding that “merely because the specification only describes one embodiment is not a sufficient reason to limit the claims to that embodiment” where no statements in the specification or the prosecution history invite, much less require the Court to limit the claims to the only disclosed embodiment).¹⁰

The only record view of any POSITA is that they would understand that in addition to or instead of an oscillator, POSITAs would understand that a number of other commonly available known components could be used to measure capacitance, including the use of a charge amplifier to measure the capacitive change. Ex. 1. at ¶33.

OnePlus’ additional proposed limitations are legally improper and factually incorrect. Therefore, AGNC’s proposed construction should be adopted.

6. “displacement restoring signal” (’122 pat. claim 1)

AGNC’s Proposed Construction	OnePlus’ Proposed Construction
“signal that is used to restore displacement of the inertial element(s)”	“a signal formed from an angular rate signal output and is used to drive the angular rate sensor unit”

Claim 1 of the ’122 patent recites:

¹⁰ The ’122 specification also expressly states that the invention includes all alternatives, modifications, and equivalences to the preferred embodiment that may be included within the spirit and scope of the invention. Ex. 9, ’122 pat. at 4:15-20.

1. A microelectromechanical system (MEMS) for measuring angular rate of a carrier, comprising:
 an angular rate sensor unit receiving dither driver signals, capacitive pickoff excitation signals and a ***displacement restoring signal*** and outputting angle rate signals in response to motion of said carrier and dither motion signals;
 a central circuitry receiving said angle rate signals in response to said motion of said carrier and said dither motion signals and outputting angular rate signals and digital low frequency inertial element displacement signals; and
 a digital signal processing system analyzing said digital low frequency inertial element displacement signals and feeding back said dither driver signals to said angular rate sensor unit.

One of ordinary skill in the art would understand that after the inertial element has displaced due to angular rotation, for the next iteration, the inertial element must be reset to an equilibrium position so that the next iteration reading does not include the error of the previous displacement. Ex. 1 at ¶¶ 8-20, 34-37. Thus, the language of the term itself, and claim 1 of the '122 patent, make clear to one of ordinary skill in the art that “displacement restoring signal” is a signal that is used to restore the displacement of the inertial element(s). AGNC therefore proposes that “displacement restoring signal” be construed as a “signal that is used to restore displacement of the inertial element(s).”

OnePlus' proposed construction seeks to add several additional requirements not present in the claims. Specifically, OnePlus improperly seeks to add the limitations that the “displacement restoring signal”: (1) is formed from an angular rate signal output and (2) is used to drive the angular rate sensor unit.

In support of OnePlus' first proposal, OnePlus apparently relies on the example from Figure 6, and the description of Figure 6 including at 8:61-64, which discloses: “a low-pass filter 225, connected to the demodulator 224, for removing the high frequency noises of the amplitude signal of the in-phase differential angle rate signal to forms angular rate signal output.” Ex. 9. But, Figure 6 is again part of the '122 patent's “Detailed Description of the Preferred

Embodiment” and it remains improper to import requirements from the preferred embodiment into the claims. It is undisputed that the “displacement restoring signal” *may* be formed from the angular rate signal output, but there is no basis to impose a requirement that it *must* be.

Importantly, ’122 patent dependent claim 7 (which is dependent on unasserted claim 3 and, indirectly, on claim 1) recites: “an integrator, which is connected with said low-pass filter, integrating said angular rate signal to form a displacement restoring signal without an offset.” Asserted claim 1 recites no similar claim element. Reading in a limitation from a different claim is, again, legally incorrect and violates the doctrine of claim differentiation where when different words or phrases are used in separate claims, a difference in meaning and scope is presumed. *See e.g., Comark Commc'ns, Inc.*, 156 F.3d at 1187; *see also SRI Int'l*, 775 F.2d at 1122 (“It is settled law that when a patent claim does not contain a certain limitation and another claim does, that limitation cannot be read into the former claim in determining either validity or infringement”); *Home Diagnostics, Inc.*, 381 F. 3d at 1357-58 (Fed. Cir. 2004) (recognizing the history of a patent family with the same or essentially the same specifications featuring only one preferred embodiment and differing claim scopes).

OnePlus’ purported support for its other proposed limitation, that the “displacement restoring signal” is used to drive the angular rate sensor unit, suffers from identical flaws. OnePlus apparently relies on another portion of the specification’s disclosure of the preferred embodiment through Figure 6, which includes “a diver amplifier 227, connected to the integrator 226, for amplifying the displacement restoring signal without an offset to form a driving signal to the angular rate sensor unit.” Ex. 9 at 9:1-4. Dependent claims 7 and 8 make a similar recitation. In addition to the same legal errors described above, notably, claim 1 of the ’122

patent nowhere discloses an integrator or a driver amplifier and claim 1 cannot be limited to require those elements where they are not present.

Based on the plain meaning of the claim terms themselves, the dither driver signals drive the dither (or oscillation) of the inertial element(s) in one plane and the “displacement restoring signal” restores the inertial elements to where they were before the displacement experienced in a perpendicular plane due to the Coriolis effect as a result of angular rotation. OnePlus’ proposed requirement that the “displacement restoring signal” must be “used to drive the angular rate sensor unit” makes the claims confusing, at best, and potentially misleading to the jury. In agreement with that concept, LG’s expert, Scott Andrews, conceded at deposition that the “displacement restoring signal” is “[c]ertainly not driving [the angular rate sensor unit’s inertial element] in the same way that the dither drive signals drive it.” Ex. 2 at 64:8-10.

OnePlus’ additional proposed limitations are legally improper and factually incorrect.

Therefore, AGNC’s proposed construction should be adopted.

7-8. “said X axis, Y axis and Z axis angular rate electrical signals and said X axis, Y axis and Z axis acceleration electrical signals are converted into digital angular increments and digital velocity increments respectively” (’648 pat. claim 1) and “converting said three-axis angular rate signals into digital angular increments and converting said three-axis acceleration signals into digital velocity increments” (’758 pat. claim 1)

AGNC’s Proposed Construction	OnePlus’ Proposed Constructions
Long phrase inappropriate for construction. Plain and ordinary meaning to one of skill in the art at the time of invention.	’648 patent: “said X axis, Y axis and Z axis angular rate electrical signals and said X axis, Y axis and Z axis acceleration electrical signals are respectively integrated over a predetermined time interval and then digitized to form digital angular increments and digital velocity increments, respectively” ’758 patent: “integrating said three-axis angular rate signals over a predetermined time interval and then digitizing the integrated values to form digital angular increments, and integrating said three-axis acceleration signals over a

	predetermined time interval and then digitizing the integrated values to form digital velocity increments”
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As shown below, OnePlus seeks to re-write a substantial portion of the claim language.

In the '648 patent, claim 1, OnePlus seeks to re-write 35 words into 45 words (1.29x longer). In the '758 patent, claim 1, OnePlus seeks to re-write 20 words into 44 words (2.2x longer).

Patent and Claim	Claim Language	OnePlus' Proposed Changes to Claim Language
'648 patent claim 1	“said X axis, Y axis and Z axis angular rate electrical signals and said X axis, Y axis and Z axis acceleration electrical signals are converted into digital angular increments and digital velocity increments respectively”	“said X axis, Y axis and Z axis angular rate electrical signals and said X axis, Y axis and Z axis acceleration electrical signals are ~~converted~~ <u>into respectively integrated over a predetermined time interval and then digitized to form</u> digital angular increments and digital velocity increments, respectively”
'758 patent claim 1	“converting said three-axis angular rate signals into digital angular increments and converting said three-axis acceleration signals into digital velocity increments”	“ ~~converting~~ <u>integrating</u> said three-axis angular rate signals ~~into~~ <u>over a predetermined time interval and then digitizing the integrated values to form</u> digital angular increments, and ~~converting~~ <u>integrating</u> said three-axis acceleration signals ~~into~~ <u>over a predetermined time interval and then digitizing the integrated values to form</u> digital velocity increments”

Despite this, OnePlus asks this Court to re-write this portion of the claims using different words. But, the purpose of claim construction is to clarify legitimate ambiguities, not to rewrite the claims using different words. *K-2 Corp. v. Salomon S.A.*, 191 F.3d 1356, 1364 (Fed. Cir. 1999) (“Courts do not rewrite claims; instead, we give effect to the terms chosen by the

patentee.”). OnePlus’ proposed re-writes, using the words “integrating” or “integrated” and “digitizing” or “digitized,” have different meanings than the language of the claim terms.

As one example, OnePlus seeks to re-write the claims to exclude the words “converting” and “converted” but these are terms with an ordinary meaning to one of ordinary skill in the art (and the layman); there is no ambiguity in the terms “converting” or “converted” in the context of the claims that requires this Court to construe them. OnePlus has not demonstrated that there is any ambiguity in these terms, but simply seeks to re-write them.

Consistent with plain and ordinary meaning, Mr. Messenger has also opined that one of skill in the art would understand “converting” means the process of changing something from one form to another and “converted” means “changed from one form to another.” Ex. 1 at ¶50. OnePlus again offers no expert opinion but LG’s expert agreed that, in ordinary use, “convert” means “to change something” or “changing something from one form to another.” Ex. 2 at 160:17-162:5. He agreed that “converting” is “the process of changing something from one form to another.” *Id.* at 161:12-13. He agreed that in his work, he was familiar with instances of “converting” from one form to another. *Id.* at 169:1-173:10.

OnePlus’ proposed constructions again improperly seek to treat the preferred embodiment as though it were the claim. For example, in the “Detailed Description Of The Preferred Embodiment,” with references to Figure 3 and 4, the specification states that “[i]n some applications” (Ex. 12, ’758 pat., 6:21) there is a step that is consistent with OnePlus’ proposed construction. Ex. 12, ’758 pat., 6:25-7:61. But again, importing features of the disclosed preferred embodiment and imposing them as requirements of the claims is prohibited. *Electro Med. Sys., S.A. v. Cooper Life Scis., Inc.*, 34 F.3d 1048, 1054 (Fed. Cir. 1994); *EPOS Techs. Ltd.*, 766 F.3d at 1341. *See also Kara Tech., Inc.*, 582 F.3d at 1348 (claims should not be

interpreted by importing limitations from the specification into the claims). The specification informs and teaches; it does not define the legal scope of protection. *Phillips*, 415 F.3d at 1316.

OnePlus’ real request is to limit the claims to a specific order of steps, proposing to require integrating *before* digitizing by including the phrase “*and then*.” For example, OnePlus’ proposed construction for the ’758 patent is:

integrating said three-axis angular rate signals over a predetermined time interval *and then* digitizing the integrated values to form digital angular increments, and integrating said three-axis acceleration signals over a predetermined time interval *and then* digitizing the integrated values to form digital velocity increments

(emphasis added). As an important initial matter, neither ’648 patent, claim 1 nor ’758 patent claim 1 itself imposes a required order. OnePlus’ proposal violates Federal Circuit law that a “claim is not limited to performance of the steps in the order recited.” *Baldwin Graphic Sys., Inc. v. Siebert, Inc.*, 512 F.3d 1338, 1345 (Fed. Cir. 2008). OnePlus points to nothing in the claim imposing any specific order or required sequence and there is nothing.

As purported support for its proposed limitation, OnePlus appears to rely on the example in Figure 7, from the detailed description of the preferred embodiment. However, in relying on the discussion in Column 7 of the ’758 patent, OnePlus overlooks that the patent teaches:

Step 2.3 *can be may be* implemented by an analog/digital converter 660, as shown in Fig. 7, and the step 2.3 further comprises:
2.3A digitizing the raw three-angular increment and velocity increment voltage values into digital three-angular increment and velocity increment values.

Ex. 12 at 7:1-7 (emphasis added).

Contrary to OnePlus’ position that the specification suggests that there is only one way of converting, the very next portion of the specification explains that the integrating and digitizing steps can be done in a number of ways, using multiple configurations, known in the art:

In applications, the above amplifying, integrating, analog/digital converter and oscillator **can be** built with circuits, including Application Specific Integrated Circuits (ASIC) a printed circuit board.

Id. at 7:8-11 (emphasis added).

In addition, both of the '648 and '758 patents disclose several possible configurations for the “angular increment and velocity increment producer” that is responsible for the conversion of angular rate signals into digital angular increments and acceleration signals into digital velocity increments. *See*, e.g. Ex. 11, '648 pat., 4:43-58 and Figs. 4-7 (disclosing block diagrams illustrating “an angular increment and velocity increment producer” and several “[l]other angular increment and velocity increment producer[s]” with several different configurations) and Ex. 12, '758 pat., 4:31-45 and Figs. 4-7 (disclosing block diagrams illustrating an “angular increment and velocity increment producer” and “another angular increment and velocity increment producer”). This is consistent with Mr. Messenger’s explanation that a POSITA would understand that multiple circuit configurations can accomplish these functions, and in many orders. Ex. 1 at ¶¶ 52-56.

OnePlus’ additional proposed limitations are legally improper and should be rejected.

9-10. “digital angular increments” and “digital velocity increments” ('648 pat. claim 1, '758 pat. claim 1)

AGNC’s Proposed Constructions	OnePlus’ Proposed Constructions
Plain and ordinary meaning to one of skill in the art at the time of invention. If construed, “digital angular increments” means “changes in angle expressed digitally” and “digital velocity increments” means “changes in velocity expressed digitally”	<i>“accumulated changes</i> in angle <i>over a predetermined time interval</i> expressed in digital form” <i>“accumulated changes</i> in velocity <i>over a predetermined time interval</i> expressed in digital form”

Each word in both terms “digital angular increments” and “digital velocity increments” is readily understandable; there is no ambiguity that requires construction. The parties have even agreed on a construction for “digital,” which is “not analog; as opposed to analog.” Ex. 14 at 4-5 and Ex. 15 at 2. OnePlus has not identified any ambiguity in these terms, a threshold requirement for the term to be construed. The purpose of claim construction is to clarify legitimate ambiguities, not to rewrite the claims using different words. *K-2 Corp.*, 191 F.3d at 1364.

However, in the event that this Court does construe “digital angular increments” and “digital velocity increments,” AGNC’s proposed constructions of “changes in [angle]/[velocity] expressed digitally” are consistent with the ordinary meaning in the context of the claims.

OnePlus asks the Court to construe “increment.” AGNC submits that “increment” is a known term that presents no ambiguity. Consistent with that idea, Mr. Messenger has opined that one of skill in the art would understand “increment” means a change or a change from a prior value to a current value. Ex. 1 at ¶¶ 48-49.¹¹

Despite all of the above, OnePlus asks this Court to construe “increment” to require additional limitations: (1) not just changes in angle or velocity, but *accumulated* changes in angle or velocity and (2) the changes in angle or velocity must be *over a predetermined time interval*. These proposals do not result from any known meaning of the word “increment” and the claims do not require these limitations.

¹¹ Consistent with that understanding, LG’s expert agreed that in ordinary use, increment means “the amount of change that has occurred in whatever is being measured” or a “change from a prior value to a current value.” Ex. 2 at 150:20-152:8. He agreed that this was a common definition for increment. *Id.* at 151:24-152:1.

OnePlus seeks to import features from the specification's example of the "preferred embodiment":

integrating the three-axis angular rate analog voltage signals and three-axis acceleration analog voltage signals for a predetermined time interval to accumulate the three-axis angular analog voltage and three-axis velocity voltage as raw three-axis angular increment and three-axis velocity increment for the predetermined time interval to remove the noise signals

Ex. 12, '758 pat., 6:25-31. But the '648 and '758 patents both disclose multiple embodiments and/or possible configurations. *See*, e.g. Ex. 11, '648 pat., 4:43-58 and Figs. 4-7 (disclosing block diagrams illustrating "an angular increment and velocity increment producer...according to the above preferred embodiment of the present invention" and several "[o]ther angular increment and velocity increment producer[s] ... according to the above preferred embodiment of the present invention" demonstrating that even the preferred embodiment encompasses several different configurations) and Ex. 12, '758 pat., 4:31-45 and Figs. 4-7 (disclosing block diagrams illustrating an "angular increment and velocity increment producer" and "another angular increment and velocity increment producer").

It is legally improper to read features of the embodiments into the claims. *Electro Med. Sys., S.A.*, 34 F.3d at 1054; *EPOS Techs. Ltd.*, 766 F.3d at 1341. *See also Kara Tech., Inc.*, 582 F.3d at 1348 (claims should not be interpreted by importing limitations from the specification into the claims). The specification informs and teaches; it does not define the legal scope of protection. *Phillips*, 415 F.3d at 1316.

OnePlus' proposed limitation to a "predetermined time interval" also adds confusion and ambiguity to an unambiguous claim term. There is no legal basis to require that the time interval must be "predetermined" and that word begs the question of what it requires. OnePlus' proposal should be rejected.

IV. Conclusion

AGNC respectfully requests that this Court adopt its proposed claim constructions as set forth above.

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CERTIFICATE OF SERVICE

The undersigned certifies that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system on March 2, 2021.

/s/ Alexander Debski