THE HONORABLE TANA LIN

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

AMERICAN GNC CORPORATION, Plaintiff, v. NINTENDO CO., LTD. and NINTENDO OF AMERICA INC., Defendants.	Case No. 2:23-cv-00302-TL **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 noninfringement contentions and discovery responses, Plaintiff American GNC Corporation's ("AGNC") Preliminary Infringement Contentions, dated October 4, 2023, are materially deficient and non-compliant with this Court's local rules. AGNC's failure to comply with the rules has hampered the parties' ability to investigate claims and defenses.

To the extent AGNC 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 amend or supplement based on further discovery, including from third parties. Additionally, Nintendo reserves the right to identify terms as indefinite should it become

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apparent (*e.g.*, through claim construction, meeting-and-conferring, amendment to contentions, or further discovery) that terms as construed by AGNC render any claim indefinite.

Claim Term	Preliminary Proposed Construction and Extrinsic Evidence
"A microelectromechanical system (MEMS) for measuring angular rate of a carrier" ('122 patent, claim 1)	Preamble is not limiting
"displacement restoring signal" ('122 patent, claim 1)	"electrical signal used to oppose displacement of inertial element(s) caused by angular rotation"
"inertial element displacement signals" ('122 patent, claim 1)	"electrical signals reflecting dither motion of inertial element(s)"
"A micro inertial measurement unit" ('648 patent, claims 1, 4)	Preamble is not limiting
"said vehicle" ('648 patent, claim 4)	"a device or structure for transporting persons or things" *The American Heritage Dictionary of the English Language* (3d Ed.) (1996) ("A device or structure for transporting persons or things[.]") *McGraw-Hill Dictionary of Scientific and Technical Terms* (5th Ed.) (1994) definition of "vehicle" ("A structure, machine, or device, such as an aircraft or rocket, designed to carry a burden through air or space.") *Webster's Dictionary* (1997) definition of "vehicle" ("a motorized device for transporting goods, equipment, or passengers") *McGraw-Hill Dictionary of Scientific and Technical Terms* (5th Ed.) (1994) definition of "carrier" ("Any machine for transporting materials or people.")

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

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constructions, based on, without limitation, the constructions proposed by Plaintiff, information learned in the course of meeting-and-conferring, information learned through the course of discovery or other means, and any changes or amendments to the parties' contentions. With respect to extrinsic evidence, Nintendo may rely on the testimony of Thomas Kenny regarding the understanding of a POSITA for the disputed terms and background, as described above.

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Dated: January 29, 2024

/s/ Matthew Brigham

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CERTIFICATE OF SERVICE

I hereby certify that on January 29, 2024, I electronically served the following:

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