

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND/ODESSA DIVISION**

PALISADE TECHNOLOGIES, LLP,

Plaintiff

v.

MICRON TECHNOLOGY, INC. and
MICRON SEMICONDUCTOR
PRODUCTS, INC.,

Defendants.

Case No. 7:24-cv-00262-DC-DTG

Jury Trial Demanded

DEFENDANTS' OPENING CLAIM CONSTRUCTION BRIEF

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I. INTRODUCTION

The parties disagree on the constructions of six claim terms and three means-plus-function limitations across four of the five patents-in-suit.¹ For five of the claim terms, Micron proposes constructions grounded in the intrinsic record. For one term, a person of skill in the art would not have been able to distinguish the scope of this term of degree because it lacks any objective boundary. Palisade, on the other hand, hides behind a “plain and ordinary meaning” position for all six terms, while refusing to disclose its position on the claim scope of vague and ambiguous terms. For the three means-plus-function limitations, Micron correctly identifies the corresponding structures from the specification, while Palisade omits a necessary component for one term and includes functional “black box” elements for the other two terms, which would impermissibly expand the scope of those terms to any structure capable of performing the stated function.

“When the parties present a fundamental dispute regarding the scope of a claim term, it is the court’s duty to resolve it.” *O2 Micro Int’l Ltd. v. Beyond Innovation Tech. Co.*, 521 F.3d 1351, 1362 (Fed. Cir. 2008). The Court should resolve these disputes by adopting Micron’s constructions.

II. FACTUAL BACKGROUND

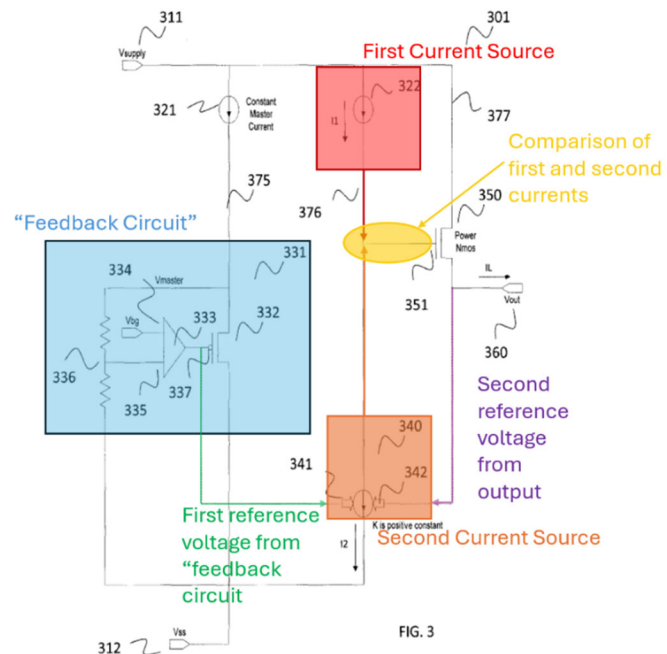
A. U.S. Patent No. 8,148,962 (the “’962 Patent”)

The ’962 Patent was filed May 12, 2009 and is titled “Transient Load Voltage Regulator.” The ’962 Patent discloses a voltage regulator that purports to provide a stable source voltage in response to a varying output load, such as in a device where circuits get turned on or off as different functionality is used. ’962 Patent at 1:5-24. The ’962 Patent states that prior art voltage regulators accomplish this goal by using a feedback arrangement where a portion of the output voltage is

¹ Neither party identified any terms from U.S. Patent No. 9,281,314 for claim construction.

used as an input and compared to a reference voltage. *Id.* at 1:19-34, 5:8-18. This feedback circuit then adjusts the source voltage accordingly. *Id.* The patent asserts that a drawback of the prior art approach is that it requires a large capacitor, which is ineffective for circuits operating at some frequencies, takes up significant space, and adds complexity. *Id.* at 1:35-47; 5:19-35.

The '962 Patent claims to overcome this drawback by using the voltage regulator design illustrated in Figures 3-6. Figure 3, annotated here, illustrates the key features disclosed by the '962 Patent. Critically, this voltage regulator compares two currents, rather than two voltages, to make changes to the output of the voltage regulator. *Id.* at 5:58-6:24. The first of these currents is a



stable current I_1 from a first current source 322; the second is a variable current I_2 from a second current source 340 that changes based on the output voltage. *Id.* at 6:34-48. As the output voltage changes from a varying output load, the variable current source 340 provides a different current, resulting in a change to the comparison of the two currents. *Id.* at 6:1-14.

The patent discloses that to generate the variable second current, the second current source 340 must receive an input from two reference signals—a “second reference signal” based on the voltage at the output node and a “first reference signal” based on a circuit that the '962 Patent calls a “feedback circuit” 331. *Id.* at 5:52-57, 6:42-48. Importantly, this “feedback circuit” 331 does not generate a voltage based on a feedback arrangement, as was done in the prior art. Instead, it takes as inputs a reference voltage (labeled V_{bg}) and a portion of the supply voltage (at the node labeled

335). *Id.* at 8:46-60; *see also id.* at Fig. 5. No feedback of any type—either from the circuit itself or the voltage regulator as a whole—is provided as an input to this “feedback circuit” 331.

B. U.S. Patent No. 8,327,051 (the “’051 Patent”)

The ’051 Patent was filed November 20, 2007 and is titled “Portable Handheld Memory Card and Methods for Use Therewith.” The ’051 Patent discloses a memory card having both a USB port and an input/output (I/O) port, wherein the ports are positioned to allow the memory card to be inserted using the same insertion direction into a host device having either a mating USB port or a mating I/O port. ’051 Patent at 1:61-2:4.

To achieve same insertion direction mating, the memory card includes two independent host-interface pin groups—USB pins (e.g., the “D-” and “D+” pins are specific to the USB port) and I/O pins (e.g., the “CMD,” “DATA,” and “CLK” pins are specific to the I/O port)—

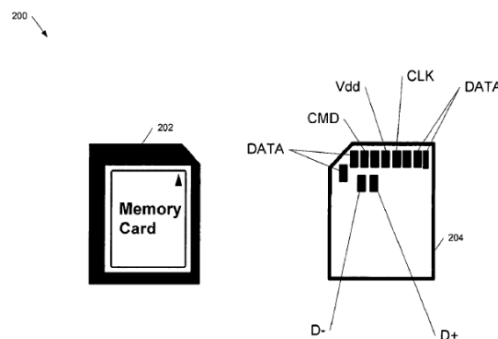


Figure 2

on the same leading edge 202 of the card’s housing, as shown in Figure 2. *Id.* at Fig. 2, 5:21-22. Figure 2 also depicts pins in distinct “pin layouts” for USB and I/O ports. *See* Ex. 13 (’051 File History, 2/23/11 Response) at 7-8 (citing Fig. 2).

C. U.S. Patent No. 8,996,838 (the “’838 Patent”)

The ’838 Patent was filed May 8, 2014 and is titled “Structure Variation Detection for a Memory Having a Three-Dimensional Memory Configuration.” The ’838 Patent describes an alleged improvement to the reliability of three-dimensional (“3-D”) NAND memory stacks by storing data identifying the location at which a vertical channel begins to taper. ’838 Patent at 2:10-

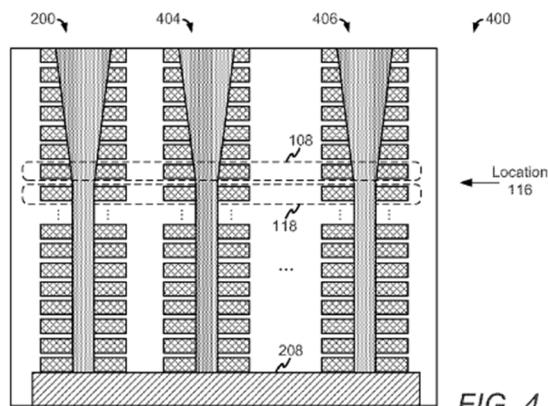
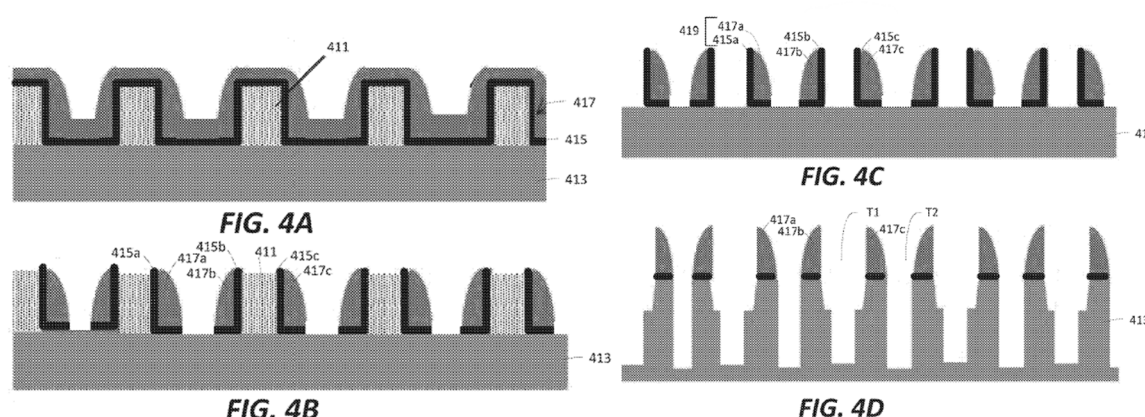


FIG. 4

23. The patent explains that this tapering occurs due to the etching process used to manufacture 3-D NAND. *Id.* at 1:60-2:8. This variation may require different error correction or access parameters to the layers above it compared to those below it. *Id.* at 2:23-60. Figure 4 illustrates “Location 116” as the point where the vertical channel begins to taper. *Id.* at Fig. 4.

D. U.S. Patent No. 9,524,974 (the “’974 Patent”)

The ’974 Patent was filed July 22, 2015 and is titled “Alternating Sidewall Assisted Patterning.” The ’974 Patent describes an alleged improvement to trench-forming techniques by creating alternating first and second trenches in a dielectric layer, as shown in Figures 4A-4D.



The patent explains that this process produces a first trench profile that has a T-shaped cross-section—wide at the top, narrow at the bottom—and a second trench profile that is rectangular. *Id.* at 2:27-37. The Patent explains that the distinction between these two trenches is based on their profile and is not merely dimensional. *Id.* at 9:20-33. For example, the patent explains that the “first trenches have a T-shaped profile in cross section” due to the fact that the “upper portion may taper somewhat down to a step” while the lower portion “has a substantially uniform width.” *Id.* On the other hand, “a second type of trench, T2, has a substantially uniform width, W2, from top to bottom.” *Id.* These two trenches are shown in Figure 4D (above).

This difference in shape is also apparent with respect to the purpose of the alternating

layers. For example, during subsequent copper electrofill the narrower lower region of the first shape fills void-free to form a robust bit-line conductor, while the rectangular second shape traps an intentional air gap that lowers inter-line capacitance. *Id.* at 9:44-10:11.

Because the trenches are created in pairs, they form an alternating pattern (e.g., T1-T2-T1-T2 ...). *Id.* at 9:34-43. The patent emphasizes that such an alternating pattern is central to the claimed dielectric-air-gap scheme; absent that arrangement, adjacent copper lines would not be electrically balanced, and yield-critical vias might overlap air gaps. *Id.*

III. DISPUTED TERMS

A. '962 Patent Terms

1. Feedback Circuit

Term	Palisade's Proposed Construction	Micron's Proposed Construction
"a feedback circuit . . . including a feedback transistor" '962 Patent, Claims 1, 14	Plain and ordinary meaning	"a circuit that generates a voltage at the gate of a transistor by comparing a voltage proportional to the voltage across the drain and source of the transistor and a reference voltage with a differential amplifier"

The "feedback circuit ... including a feedback transistor" term requires construction because the '962 Patent does not use the term in a manner consistent with its plain and ordinary meaning. Instead, the patentee redefined "feedback circuit" by using the term to describe a circuit that a POSITA would not have recognized to be a feedback circuit. Baker Decl. at ¶¶39-53. For the Court to find lexicography, "an explicit redefinition or disavowal" is not required—that definition may be inferred from the context of the patent. *See Trs. of Columbia Univ. in City of New York v. Symantec Corp.*, 811 F.3d 1359, 1363 (Fed. Cir. 2016). Here, the claim term is redefined by its usage in the context of the alleged invention in a manner different from its plain

meaning. Baker Decl. at ¶¶40-53. Because the patent’s disclosed embodiments do not use “feedback circuit” according to its ordinary usage, Palisade’s proposed construction would render the claim non-enabled and lacking written description. Thus, the Court should adopt Micron’s proposed construction, which accurately reflects the patentees specialized usage of “feedback circuit” in the context of the alleged invention.

a) The plain and ordinary meaning of “feedback circuit” requires using a portion of the output of a circuit as an input

To understand the confusion that would be introduced by a plain and ordinary meaning construction, it is helpful to first understand the plain and ordinary meaning of “feedback circuit.” To determine how a POSITA would have understood this term, courts “look to dictionaries or other extrinsic sources” to understand the plain meaning of claim language. *Helmsderfer v. Bobrick Washroom Equip., Inc.*, 527 F.3d 1379, 1382 (Fed. Cir. 2008).

At the time of the ’962 Patent, a POSITA would have understood “feedback circuit” to refer to a type of circuit in which the circuit’s *output is fed back into its input*. Baker Decl. at ¶¶41-44. Contemporaneous dictionaries and textbooks all define “feedback circuit” as having this feature. For example, the McGraw-Hill Encyclopedia of Science and Technology states:

Feedback circuit A circuit that returns a portion of the output signal of an electronic circuit or control system to the input of the circuit or system. When the signal returned (the feedback signal) is at the same phase as the input signal, the feedback is called positive or regenerative. When the feedback signal is of opposite phase to that of the input signal, the feedback is negative or degenerative.

See Ex. 1.² Other dictionaries provide consistent definitions of both “feedback circuit” and “feedback,” confirming that returning a portion of the output to the input is a critical feedback circuit requirement.

² All instances of Ex. __ refer to exhibits to the Declaration of Bradley Berg in Support of Defendant’s Opening Claim Construction Brief (“Berg Decl.”).

Dictionary	Definition of “Feedback Circuit” or “Feedback”
Wiley Electrical and Electronics Engineering Dictionary (2nd ed. 2004), Ex. 2	Feedback circuit: “1. A circuit which provides feedback;” “2. A circuit which <i>returns a fraction of its output to the input</i> ” ³ Feedback: “The <i>return of a fraction of the output</i> of a circuit device, piece of equipment, or system, <i>to the input</i> of the same circuit device, piece of equipment, or system.”
McGraw-Hill Dictionary of Scientific and Technical Terms (6th ed. 2003), Ex. 3	Feedback circuit: A circuit that <i>returns a portion of the output</i> signal of an electronic circuit or control system <i>to the input</i> of the circuit or system. Feedback: The <i>return of a portion of the output</i> of a circuit or device <i>to its input</i> ; The control of input as a function of output by returning a portion of the output to the input
The Penguin Dictionary of Electronics (4th ed. 2005), Ex. 4	Feedback: “The process of <i>returning a fraction of the output</i> energy of an energy converting device <i>to the input</i>”
Comprehensive Dictionary of Electrical Engineering (2nd ed. 2005), Ex. 5	Feedback: “1. <i>signal or data that is sent back</i> to a commanding unit <i>from a control process output for use as input in subsequent operations...</i> ,” “2. The provision of a path <i>from the output to the input</i> of a system, such that the output may be made a function of both the input and the previous outputs of the system;” “3. the technique of sampling the output of an amplifier and using that information to modify the amplifier input signal. <i>A portion of the output is ‘fed back’ to the input.</i> ”
Collins Electronics Dictionary (2nd Ed. 2004), Ex. 6	Feedback: “the <i>return as part of the input</i> to an amplifier of a <i>signal that is obtained from the output...</i> ”

The patentee shares this understanding of “feedback circuit” when discussing the prior art. Baker Decl. at ¶¶45-46. For example, in describing Figure 2, annotated below, the ’962 Patent explains that prior art voltage regulators provide a stable voltage by utilizing a “feedback circuit that includes differential amplifier 101 and voltage divider 103.” ’962 Patent at 5:7-10. The patent explains that in

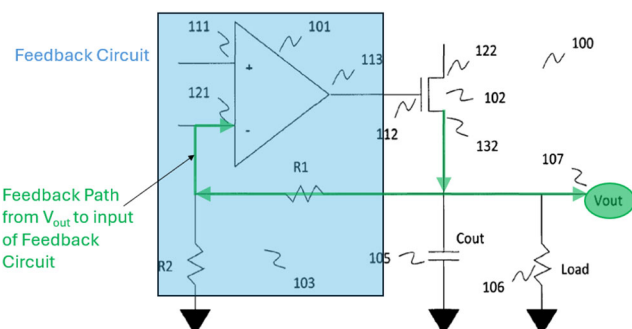


FIG. 2
Prior Art

³ All emphasis added unless otherwise noted.

this prior art voltage regulator, the feedback circuit—like all feedback circuits—takes a portion of the output (in this case a portion of the voltage regulator’s output *V_{out}*) and feeds it back to the feedback circuit as an input: “*The feedback circuit is arranged so that an output 113 of differential amplifier 101 drives gate 112 of pass transistor 102 in response to a comparison of a voltage at output node 107 and a reference voltage at node 111 of differential amplifier 101.*” *Id.* at 5:11-15; *see also id.* at 1:25-34.

b) Applying the plain and ordinary meaning of “feedback circuit” would undercut the specification’s specialized use of the term and render the patent invalid

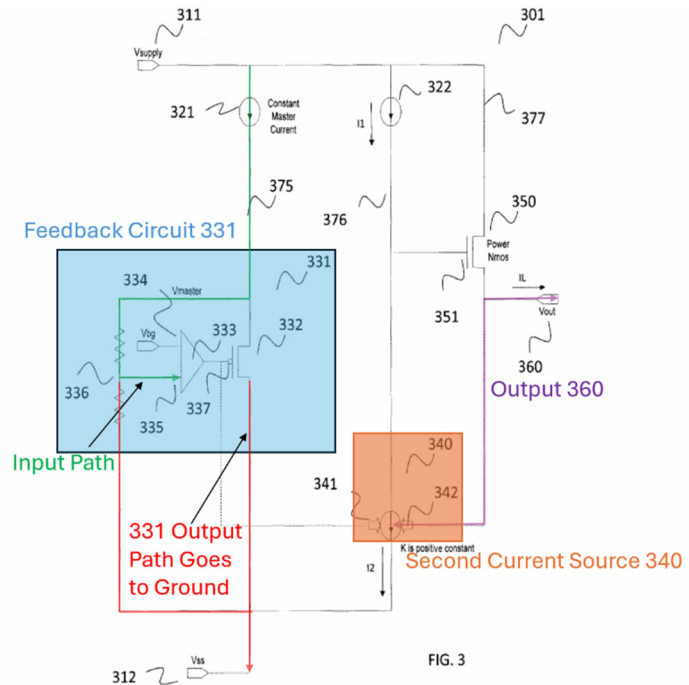
When describing the claimed invention, the ’962 Patent’s “feedback circuit” is not a feedback circuit in the sense that a POSITA would have understood it because it does not return any portion of the circuit’s output to its input. Baker Decl. at ¶¶47-50. Between the Claims, Abstract, Summary of the Invention, and Detailed Description, the specification uses “feedback circuit” over a dozen times to describe the alleged invention—none of these uses describe a circuit where a portion of the output is fed back as an input. The specification’s description of Figure 3 illustrates the use of “feedback circuit” throughout the patent when describing the alleged invention:

Regulator 301 includes *feedback circuit 331* coupled to first current path 375. *Feedback circuit 331 includes a differential amplifier 333 and a feedback transistor 332.* In the embodiment shown, feedback transistor 332 is a Pmos transistor. Feedback circuit 331 is arranged such that a voltage at gate 337 is maintained substantially constant.

’962 Patent at 5:52-57. This description of a “feedback circuit” says nothing about the circuit’s output being fed back into its input—a critical requirement of a feedback circuit.

The patent figures confirm that no “feedback” occurs in the “feedback circuit” described by the disclosed embodiments. *See, e.g., id.* at Fig. 3. As shown, Figure 3’s “feedback circuit” 331 receives two inputs at its differential amplifier 333: a reference voltage labeled “*V_{bg}*” and a

voltage proportional to a voltage across the drain and source terminals of the feedback transistor (labeled “Input Path” in the annotated Figure 3, right). Neither of these inputs is or contains any portion of the output voltage from the feedback circuit itself or from the voltage regulator as a whole. For example, as shown in Figure 3, the drain of the “feedback transistor” 332 portion



of the “feedback circuit” is simply connected to ground and no portion is fed back into the “feedback circuit’s” inputs. Baker Decl. at ¶¶48-49. Similarly, the overall output of the voltage regulator (labeled 360) is not fed back into the inputs of the “feedback circuit”—it is instead fed into the “second current source.”

The claim language confirms that “feedback circuit” is not used in its plain and ordinary sense. Claim 1 of the ’962 Patent recites three “feedback circuit”: (1) it is “coupled to a first current path,” (2) it “includes a feedback transistor,” and (3) it “is constructed to maintain a voltage at a gate of said feedback transistor substantially constant.” *Id.* at 12:27-30. None of these limitations require the output (or portion thereof) being returned to the input. Rather, the claim language makes clear that the circuit’s output is returned to the input of the second current supply circuit—not the claimed “feedback circuit.” Baker Decl. at ¶50.

Micron’s proposed construction of “feedback circuit” comports with what the patentee actually described as its “feedback circuit” in the disclosed embodiments. Baker Decl. at ¶¶51-53.

Describing the embodiment shown in Figure 5 and relevant to all the embodiments, the '962 Patent explains that the “feedback circuit includes [a] differential amplifier . . . adapted to receive, at input, a feedback voltage⁴ proportional to a voltage across the drain and source terminals of [the] feedback transistor, and compare the feedback voltage to a reference voltage.” '962 Patent at 8:50-56 (figure references omitted); *see also* Figures 3-6. Micron’s construction captures this description by describing what the feedback circuit’s two inputs actually are—“[1] a voltage proportional to the voltage across the drain and source of the transistor and [2] a reference voltage.” This avoids confusion, caused by the claim’s non-conventional use of the term “feedback circuit,” that one of the inputs must be an output voltage or a voltage proportional to the output voltage. Micron’s construction also clarifies that the feedback circuit’s inputs are read in by the differential amplifier and that it generates a voltage at the gate of a transistor, as described by the patentee and required by every embodiment. '962 Patent at 8:46-60, Figures 3-6.

Because the '962 Patent’s claims use the term “feedback circuit” in an unconventional way that does not comport with its plain and ordinary meaning, the Court should construe the claim in a way that reflects its specialized usage in the specification. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1316 (Fed. Cir. 2005) (“[T]he specification may reveal a special definition given to a claim term by the patentee that differs from the meaning it would otherwise possess. In such cases, the inventor’s lexicography governs.”); *see also Trs. of Columbia Univ.*, 811 F.3d at 1363. In fact, a “plain and ordinary meaning” construction of “feedback circuit” would exclude all disclosed embodiments—since none of the embodiments use an actual feedback circuit—and thereby render the claim non-enabled and lacking written description. *See Talbert Fuel Sys. Patents Co. v. Unocal*

⁴ The patent apparently refers to the input as a “feedback voltage” because it is part of the so-called “feedback circuit.”

Corp., 275 F.3d 1371, 1376 (Fed.Cir.2002), *vacated and remanded on other grounds*, 537 U.S. 802 (2002) (“[A] construction that renders the claimed invention inoperable should be viewed with extreme skepticism.” (citation omitted)); *Vitronics Corp. v. Conceptroonic, Inc.*, 90 F.3d 1576, 1583 (Fed. Cir. 1996) (“A claim construction that excludes a preferred embodiment is rarely, if ever, correct.” (quotations omitted)). To avoid this result, the Court should adopt Micron’s construction reflecting how “feedback circuit” is used in the ’962 Patent.

2. Substantially Constant

Term	Palisade’s Proposed Construction	Micron’s Proposed Construction
“substantially constant” ’962 Patent, Claims 1, 14	Plain and ordinary meaning	Indefinite

The parties dispute the meaning and definiteness of “substantially constant.” To satisfy the definiteness requirement of 35 U.S.C. §112, the claims must “distinctly claim[] the subject matter” of the invention, and they must “inform, with reasonable certainty, those skilled in the art about the scope of the invention.” *Nautilus, Inc. v. Biosig Instruments, Inc.*, 572 U.S. 898, 901 (2014). The Federal Circuit has explained that to satisfy this standard, “[t]he claims, when read in light of the specification and the prosecution history, must provide *objective boundaries* for those of skill in the art. *Interval Licensing LLC v. AOL, Inc.*, 766 F.3d 1364, 1371 (Fed. Cir. 2014). Here, “substantially constant” is indefinite because the intrinsic evidence fails to delineate the scope of the invention with reasonable certainty such that a POSITA would be able to distinguish when a voltage or current is substantially constant and when it is not. Baker Decl. at ¶¶54-59. Given the lack of any objective boundaries in the intrinsic evidence, the Court should find the term indefinite.

The claims and the specification use “substantially constant” in two different contexts—a substantially constant voltage at the gate of a transistor and a substantially constant current

supplied to a current path. Claim 1, partially reproduced below, illustrates these uses:

1. A voltage regulator circuit . . . , comprising:

a feedback circuit coupled to a first current path and including a feedback transistor, wherein said feedback circuit is constructed to *maintain a voltage at a gate of said feedback transistor substantially constant*;

a first current supply circuit *constructed to supply to a second current path a first current that is substantially constant*;

The term “substantially constant” is a term of degree because it “necessarily calls for a comparison against some baseline.” *Brazabra Corp. v. Ce Soir Lingerie Co.*, No. 1:18-CV-683-RP, 2019 WL 13136348, at *5 (W.D. Tex. Aug. 15, 2019) (quoting *Liberty Ammunition, Inc. v. U.S.*, 835 F.3d 1388, 1395–96 (Fed. Cir. 2016)). Although such terms of degree are not indefinite per se, there must be an objective standard to determine their scope and there must be an “objective boundary.” *See id.* at *5; *see also Berkheimer v. HP Inc.*, 881 F.3d 1360, 1364 (Fed. Cir. 2018). Neither the claim language nor the patent specification provides that objective boundary.

The claim language does not define the scope of the “substantially constant” term. Nowhere in the claim language is such a baseline, standard, or reference for “substantially constant” set forth. Baker Decl. at ¶57. Indeed, the problem is particularly acute here where the same “substantially constant” language is used to describe two separate concepts—voltage and current. Claim language is assumed to have the same meaning wherever it is used in the claim, and it would not have been clear to a POSITA that any baseline would offer a useful point of comparison in determining whether both a voltage or a current are substantially constant. *Id.*

The specification similarly provides no insight into the scope of the term “substantially constant.” Instead, the specification simply repeats the “substantially constant” language without providing any objective standards on what it means to be substantially constant. *See, e.g.*, ’962 Patent at 2:29; 2:32; 2:62; 2:65; 3:28; 3:30; 3:47; 5:57; 8:50; 8:60; 8:63; 9:2-3; 9:7; 10:15; 11:22-

24; 11:38. For example, in discussing the voltage at the gate of the feedback transistor, the specification states only: “Feedback circuit 331 is arranged such that a voltage at gate 337 is maintained substantially constant.” *Id.* at 5:56-57. Similarly, in describing the first current source the specification merely notes: “First current source 422 may be a constant current source adapted to supply, to second current path 476, a first current I1 with a substantially constant magnitude.” *Id.* at 7:52-54. Thus, without any explanation, graphical illustration, or examples, a POSITA would have been left to guess what it actually means to be substantially constant. Baker Decl. at ¶¶56-58.

Moreover, the specification does not shed light on the meaning by way of contrast—explaining what it means for a quantity *not* to be “substantially constant.” *See, e.g., Brazabra*, 2019 WL 13136348, at *6 (quoting *Versata Software, Inc. v. Zoho Corp.*, 213 F. Supp. 3d 829, 836–37 (W.D. Tex. 2016)) (finding term indefinite when the patent fails to provide non-examples). In the absence of any objective boundary defined by the patent specification or claim language, courts have often found similar “substantially” terms to be indefinite. *See, e.g., Geodynamics, Inc. v. Dynaenergetics US, Inc.*, No. 2:15-CV-1546, 2016 WL 6217181, at *15-16 (E.D. Tex. Oct. 25, 2016) (finding “substantially equal to the total depth of penetration” indefinite); *Core Wireless Licensing S.A.R.L. v. Apple Inc.*, No. 15-cv-05008, 2016 WL 3124614, at *12 (N.D. Cal. June 3, 2016) (finding “substantially impair the quality of the user information” indefinite); *Cayenne Med., Inc. v. Medshape, Inc.*, No. 2:14-cv-0451, 2016 WL 2606983, at *3-6 (D. Ariz. May 6, 2016) (finding “substantially different construction” indefinite). The same should apply here.

3. Means Plus Function Terms

Claim 14 of the '962 Patent recites four claim elements governed by 35 U.S.C. §112, ¶6. The parties agree that these terms are means-plus-function limitations and identify the same functions. The parties have several disputes regarding the corresponding structure.

a) *Feedback Means*

Term	Palisade's Proposed Construction	Micron's Proposed Construction
“feedback means for maintaining a voltage at a gate of a feedback transistor substantially constant” '962 Patent, Claim 14	<p>35 U.S.C. § 112 ¶6</p> <p>Function: maintaining a voltage at a gate of a feedback transistor substantially constant</p> <p>Structure: feedback circuit 331 of Fig. 3 (including differential amplifier 333 and transistor 332), feedback circuit of Fig. 4 (including differential amplifier 433 and transistor 432), feedback circuit 531 of Fig. 5 (including differential amplifier 533 and transistor 532), feedback circuit 631 of Fig. 6 (including differential amplifier 633 and transistor 632) and equivalents, as described and shown at 5:52-57, 7:19-21, 8:46-60; 10:13-16, Figs. 3, 4, 5, and 6.</p>	<p>35 U.S.C. §112, ¶6 applies.</p> <p>Function: maintaining a voltage at a gate of a feedback transistor substantially constant</p> <p>Structure: Feedback circuit arranged as shown in Figure 3, element 331 including differential amplifier 333, voltage divider 336, and feedback transistor 332.</p> <p>Feedback circuit arranged as shown in Figure 4, including differential amplifier 433, voltage divider 436, and feedback transistor 432.</p> <p>Feedback circuit arranged as shown in Figure 5, element 531 including differential amplifier 533, voltage divider 536, and feedback transistor 532.</p> <p>Feedback circuit arranged as shown in Figure 6, element 631 including differential amplifier 633, voltage divider 636, and feedback transistor 632.</p>

The parties dispute whether the voltage divider (element 336/436/536/636 in Figures 3-6) should be included with the structure construction. The Court should adopt Micron's construction because the specification links the voltage divider to the recited function. Baker Decl. at ¶¶60-65.

“Structure disclosed in the specification qualifies as ‘corresponding structure’ if the intrinsic evidence clearly links or associates that structure to the function recited in the claim.” *Williamson v. Citrix Online, LLC*, 792 F.3d 1339, 1352 (Fed. Cir. 2015). Here, the specification links the “voltage divider 536” shown in Figure 5, annotated right, to the claimed function of

maintaining a voltage at a gate of a feedback transistor substantially constant. The specifications states: “Feedback circuit 531 is operative to maintain a voltage at a gate of feedback transistor 532 substantially constant. To do so, *feedback circuit 531 includes differential amplifier 533 and voltage divider 536.*” ’962 Patent at 8:50-52.

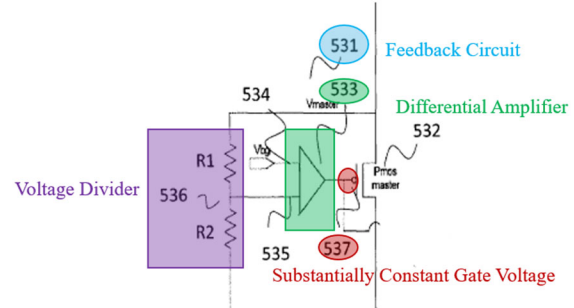


Figure 5 (excerpt)

Thus, the specification clearly states that the voltage divider is required for the claimed function, and does not describe any structure for performing the recited function without a voltage divider.

All embodiments of the claimed invention—as illustrated in Figures 3, 4, and 6 in addition to Figure 5—include the same voltage divider (annotated purple below) as part of the “feedback circuit.” *See id.* at Fig. 3 (element 336), Fig. 4 (element 436), and Fig. 6 (element 636).

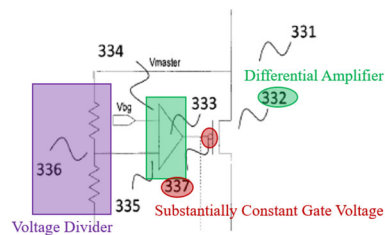


Figure 3 (excerpt)

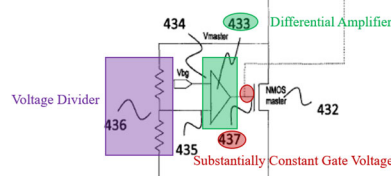


Figure 4 (excerpt)

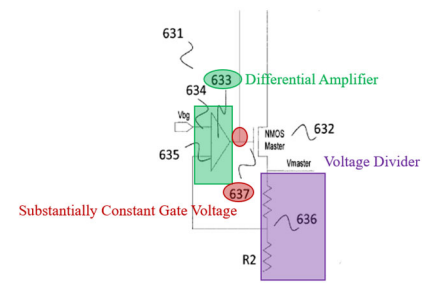


Figure 6 (excerpt)

A POSITA would have understood that in each circuit the voltage divider contributes to the claimed function in the same way as described with reference to Figure 5. Baker Decl. at ¶¶62-64. The ’962 Patent neither describes nor illustrates any embodiment that performs the claimed function without using a voltage divider. Palisade’s construction, however, omits the voltage divider entirely, even though its specification citations (e.g., “8:46-60”) discusses this necessary component. Thus, the Court should adopt Micron’s construction.⁵

⁵ Micron’s construction is also consistent with its construction of “feedback circuit” in claim 1.

b) First Current Supply Means / Second Current Supply Means

Term	Palisade's Proposed Construction	Micron's Proposed Construction
<p>"first current supply means for supplying to a second current path referenced to said input a first current that is substantially constant"</p> <p>'962 Patent, Claim 14</p>	<p>35 U.S.C. § 112 ¶6</p> <p>Function: supplying to a second current path referenced to said input a first current that is substantially constant</p> <p>Structure: first current source 322 of Fig. 3, first current source 422 of Fig. 4, first current source 522 of Fig. 5, first current source 622 of Fig. 6, and equivalents, as described and shown at 6:25-41; 7:52-61; 8:61-9:8; 10:63-11:3, Figs. 3, 4, 5, 6.</p>	<p>35 U.S.C. §112, ¶6 applies.</p> <p>Function: supplying to a second current path referenced to said input a first current that is substantially constant</p> <p>Structure: Current source shown in Figure 5 element 522, including master transistor 521 and slave transistor 523.</p> <p>Current source shown in Figure 6 element 622, including transistor 672 whose gate is connected to a bias voltage and whose drain is connected to a second current path.</p>
<p>"second current supply means . . . for receiving a first voltage reference and a second voltage reference and for supplying a second current to said second current path with a magnitude based on said first voltage reference and said second voltage reference"</p> <p>'962 Patent, Claim 14</p>	<p>35 U.S.C. § 112 ¶6</p> <p>Function: receiving a first voltage reference and a second voltage reference and for supplying a second current to said second current path with a magnitude based on said first voltage reference and said second voltage reference</p> <p>Structure: second current source 340 of Fig. 3, second current source 440 of Fig. 4, second current source 540 of Fig. 5, second current source 640 of Fig. 6, and equivalents, as described and shown at 6:42-62; 7:62-8:17; 9:40-54; 10:40-53, Figs. 3, 4, 5, 6.</p>	<p>35 U.S.C. §112, ¶6 applies.</p> <p>Function: receiving a first voltage reference and a second voltage reference and for supplying a second current to said second current path with a magnitude based on said first voltage reference and said second voltage reference</p> <p>Structure: Variable current source as shown in Figure 5, element 540 including replica transistor 542 whose gate is coupled to the gate of feedback transistor 532 and whose drain is coupled to output node 560.</p> <p>Variable current source as shown in Figure 6 element 640, including replica transistor 642 whose gate is coupled to the gate of feedback transistor 632 and whose drain is coupled to output node 660.</p>

The parties' disagreements on these two terms revolve around the same issue. The parties

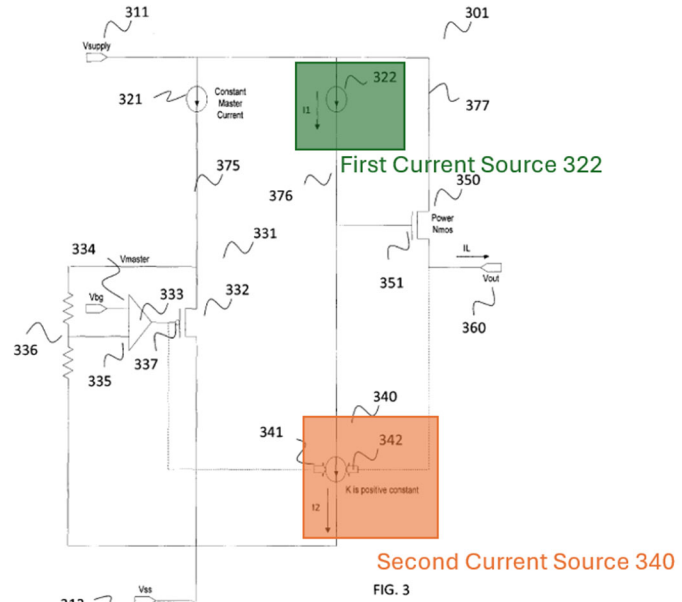
dispute whether “black box” elements shown in Figures 3 and 4 should be identified as providing structure for the first and second current supply means, when their corresponding structural details in Figures 5 and 6 are already identified. Micron contends that the “black box” elements in Figures 3 and 4 should not be included in the structure identification. The Court should adopt Micron’s construction because it encompasses all structural elements necessary to perform the claimed function without adding elements that are purely functional.

The ’962 Patent describes two embodiments—Figures 3 and 5 describe the same “one embodiment” that uses a PMOS transistor, and Figures 4 and 6 describe the same “alternative embodiment” that uses an NMOS transistor. *See* ’962 Patent at 4:20-31, 8:46-48, 10:10-13. For each embodiment, the first figure set (*i.e.*, Figs. 3 and 4) is a general “functional” diagram, and the second figure set (*i.e.*, Figs. 5 and 6) provides structure. *See id.* In the “functional” diagram of Figures 3 and 4, first and second current supplies are illustrated with oval symbols without any structural detail. *See id.* at Figs. 3-4 (elements 322, 340, 422, and 440). The “schematic diagram[s]” of Figure 5 and 6 illustrate the internal components of these current supplies. *See id.* at Figs. 5-6.

The Federal Circuit has consistently held that “purely functional language”—without adequate disclosure of structure—“is insufficient to provide the required corresponding structure” for a means-plus-function claim element. *Noah Sys., Inc. v. Intuit Inc.*, 675 F.3d 1302, 1317 (Fed. Cir. 2012). It is therefore inappropriate to identify a “black box” that describes only the claimed function as the structure for a means-plus-function term. *See ePlus, Inc. v. Lawson Software, Inc.*, 700 F.3d 509, 518 (Fed. Cir. 2012).

Yet Palisade’s constructions include a functional black box as alleged “structure.” Baker Decl. at ¶¶66-69. For example, Figure 3’s first current source 322 and second current source 340 show only an oval drawn around an arrow—meant to indicate that the details of the structure have

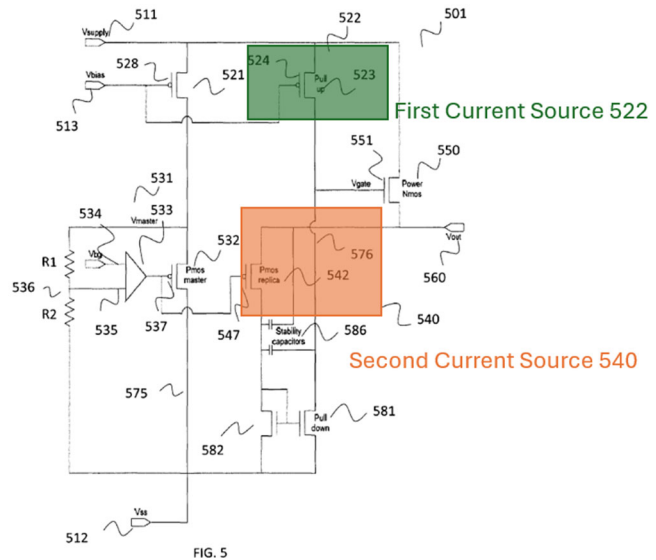
been abstracted away for purposes of the figure. '962 Patent, Figure 3. The specification passages included in Palisade's constructions further reinforce that these elements are purely functional. For example, the specification describes that "first current source 322 *functions* to pull up a current supplied to a second current path 376." *Id.* at 6:25-26.



Similarly, Palisade's specification citation describes second current source 340 in purely functional terms. *Id.* at 6:42-62 ("second current source 340 is *adapted to supply* a current"). Figure 4's first and second current sources are similarly abstracted away by ovals, and the portions of the specification cited by Palisade as providing structure describe the elements only functionally. *Id.* at Fig. 4, 7:52-8:3. Because the first and second current sources in Figures 3 and 4 do not describe *how* the components perform the identified functions, they should not be included in identified structures.

The structures of the first and second current sources are, however, described in Figures 5 and 6. Baker Decl. at ¶¶69-71. Figure 5 provides a more detailed version of the embodiment of Figure 3. *See id.* at 8:46-48. In particular, Figure 5 provides the structural details for the first current supply means (element 522) and second current supply means (element 540). *Id.* at Figure 5. This embodiment shows *how* the first and second current source perform their respective functions. As

for the first current source, the specification explains that in this embodiment it “is a slave transistor 523 of a current mirror.” *Id.* at 8:64-66. Moreover, “[g]ate 524 of transistor 523 is electrically coupled to gate 528 of master transistor 521.” *Id.* As for the second current source, the specification explains that it “includes replica transistor



542 that includes a gate 547 coupled to feedback transistor 532 gate 537.” *Id.* at 9:13-17. The specification also describes that “replica transistor 542 includes a drain coupled to output node 560.” *Id.* These components of Figure 5 provide the structure, lacking from Figure 3, that allows the first and second current sources to perform their identified functions.

Similarly, the embodiment depicted in Figure 6 provides required structure not described in Figure 4. *See id.* at 10:10-11. In Figure 6, the first current source comprises “a bias voltage... applied to gate 671 of transistor 672,” which supplies a constant current to the second current path through its drain. *Id.* at 10:65-67. And the second current source “includes transistors 681 and 682,” which “are arranged such that a current of replica transistor 642 is mirrored at transistor 681, supplying current to second current path 676.” *Id.* at 10:40-44. Figure 6 also illustrates that replica transistor 642’s drain is coupled to output node 660. *Id.* at Figure 6.⁶ Because the structures of the first and second current supply means are only provided by Figures 5 and 6, the Court should not identify the “black box” elements of Figures 3 and 4 as corresponding structure for this term.

⁶ There should be no dispute that the elements of Figures 5 and 6 discussed in this section should be included as part of the structure construction. The specification citations included in Palisade’s structure construction discuss all of these elements.

B. '051 Patent Terms**1. Layout is different for USB port and I/O Port**

Term	Palisade's Proposed Construction	Micron's Proposed Construction
"layout for the USB port is different from layout of the I/O port" '051 Patent, Claim 24	Plain and ordinary meaning	"USB port and I/O port having different physical and electrical arrangements"

The parties dispute how the “layout” limitation of claim 24 of the '051 Patent should be construed. Because the '051 Patent's specification does not use the term “layout,” Micron believes its proposed construction provides clarity that will assist the jury. Here, there may be confusion as to whether the “layout for the USB port is different from layout of the I/O port” refers to the physical arrangement of the components or their electrical arrangement. For example, some dictionary definitions define “layout” as “the way in which the parts of something are arranged or laid out,” suggesting a physical arrangement. *See* Ex. 7. But the intrinsic record confirms that the patentee and examiner understood “layout” to encompass both physical and electrical arrangements. Accordingly, the Court should adopt Micron's proposed construction.

The term “layout” does not appear in the specification. However, the specification's repeated discussion of the “USB port” and “I/O port,” including both the physical and electrical arrangements of those ports, supplies the written description for this claim term and the context for interpretation. For example, the specification explains that the memory card's housing “expos[es] the USB port and the I/O port” and that “[t]he USB port and I/O port may be positioned to allow a same card-insertion direction irrespective of whether a host device comprises a mating USB port or a mating I/O port.” '051 Patent at 2:46-50. Thus, a port's “layout” can refer to a physical arrangement in how that port physically matches up with a host device's receiving port.

The specification further teaches that, when the card is inserted, “the mating USB port of the host device is electrically connected to the USB port of the memory card,” so that “the SD port and/or the USB port of the memory card may be electrically connected to a mating SD port and/or a mating USB port of the host device, respectively.” *Id.* at 4:61-5:3. Thus, the ports’ “layout” refers to both a physical and an electrical arrangement in the ports’ order of connection pins.

During prosecution, both the patentee and the examiner treated the arrangement of the “ports”—and therefore the “layout”—as defined by the combination of physical placement and electrical connectivity. For example, when the patentee introduced a dependent claim reciting that the “layout for the USB port is different from layout of the I/O port,” he pointed to Figure 2 as depicting distinct “pin layouts,” noted that the USB port “includes serial data pins D+ and D-,” and explained that the USB pins are not electrically connected when operating in the I/O mode. Ex. 13 (’051 File History, 2/23/11 Response) at 7-8. Thus, the patentee relied on Figure 2’s physical and electrical differences as disclosing a different “layout,” confirming that the claim term must encompass both.

Later, to distinguish the Son prior art reference, the patentee argued that Son’s pins for a first type of port were a subset of those use for a second type of port and therefore “Son requires that the layouts of the pins for the various modes must conform to one another.” *Id.* (’051 File History, 2/23/11 Response) at 8 (citing Son, Fig. 2). According to the patentee, the claimed invention “allows for greater flexibility in the layouts” because “the pins for the I/O port need not be included as a pin for the USB port,” permitting the I/O port to mate with its counterpart “without any electrical connection to the USB port.” *Id.* at 8-9. The patentee later made similar arguments to overcome another reference. *See id.* (’051 File History, 8/25/11 Response) at 8-9. These arguments confirm that the differences in the “layout” cannot be simply physical—they must also

be electrical. In other words, if “layout” simply meant a physical difference, the patentee would not have identified differences in the “electrical connection.” And if “layout” simply meant an electrical difference, the patentee could not have distinguished Son on the basis that its ports “conform to one another” and thus were not physically distinct.

The examiner ultimately allowed the claims, finding the prior art failed to disclose “a memory card with a plurality of *unique position ports*.” Ex. 13 (’051 File History, 8/7/12 Notice of Allowance) at 2. Throughout the specification and prosecution history (both intrinsic evidence), the applicant consistently relied on differences in both physical positioning and electrical connectivity to distinguish the claimed USB and I/O port “layouts” from the prior art, confirming that the term “layout” encompasses those two interrelated characteristics. Thus, for the “layout of the USB port [to be] different from layout of the I/O port,” the USB port and the I/O port must have different physical and electrical configurations.

C. ’838 Patent Terms

1. Information Identifying a Location

Term	Palisade’s Proposed Construction	Micron’s Proposed Construction
“information identifying a location associated with a variation of the structure” ’838 Patent, Claims 1, 12	Plain and ordinary meaning	“information identifying where a structural variation through tapering begins”

Micron’s proposed construction for “information identifying a location associated with a variation of the structure” provides clarity to the term and will assist the jury. A plain and ordinary meaning construction here would not provide the jury with clarity as to the type of “variation” in structure to which the patent refers. The intrinsic evidence makes clear that the “location” associated with a variation is where a structural variation through tapering begins.

a) The specification exclusively describes the claimed location as where tapering begins

“The fact that [a particular feature] is ‘repeatedly and consistently’ used to characterize the invention strongly suggests that it should be read as part of the claim.” *Virnetx, Inc. v. Cisco Sys., Inc.*, 767 F.3d 1308, 1318 (Fed. Cir. 2014). Here, the patent specification “repeatedly and consistently” describes the “variation of the structure” as a variation through tapering. The “Summary” section describes only one variation—a taper. ’838 Patent at 2:3-4 (“the region may have a variation, such as a *‘tapered’ profile*”). The “Detailed Description” goes on to repeatedly and consistently describe the variation as corresponding to a tapering of the structure. *See, e.g., id.* at 5:12-13 (“The variation may correspond to a *‘tapering’* of the structure.”); 12:26-28 (“The location [associated with the variation] 116 may indicate a region of the structure 202 associated with *tapering* of the structure.”); 14:19-20 (“a variation (e.g., *tapering*) of a structure”). No embodiment describes a “variation” in any way other than a tapering.

Additional intrinsic evidence consistently and repeatedly describes the “location associated with a variation of the structure” as being where the tapering of the structure begins. For example, in describing the “location,” the specification explains that “the structure is not tapered below the location... and the structure is tapered above the location.” *Id.* at 12:29-31 (figure references omitted). The patentee goes on to provide even more clarity about the location associated with a variation of the structure is—“the

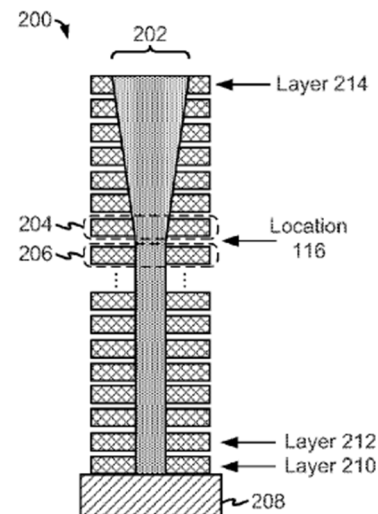


FIG. 2

location 116 is between the storage elements 204, 206 because the structure 202 begins ‘tapering’ approximately between the storage elements 204, 206.” *Id.* at 12:33-35; *see also* 2:13-16. Figure

2, which is illustrative of every disclosed embodiment, illustrates that the location identifies where the structure begins to taper. *Id.* at Fig. 2; *see also id.* at Figs. 4-5. Because the patent repeatedly and consistently, and in fact exclusively, describes the “location” as being where a structural variation through tapering begins, this limitation should be read as part of the claim.

The specification’s description of the alleged invention further supports Micron’s construction. The Summary section explains that because of physical limitations in the “etching” process, the structure that extends through the layers of 3D memory often has width variations that affect device performance. *Id.* at 1:56-2:9. To account for this impact on device performance, the patent proposes logically separating the device into two areas—one below where the taper begins, and one above where the taper begins. *Id.* at 2:10-22. Different parameters, including error correcting codewords and read-write parameters, can be assigned to the two areas. *Id.* at 2:23-60, 6:38-7:30. By splitting the memory into two logical areas, the parameters can be assigned to account for the different width of the pillar above and below the location where tapering begins, improving performance of the memory device as a whole. *Id.* at 9:17-58, 11:45-55. The ’838 Patent contemplates splitting the device into only two logical areas based on the width of one pillar. To solve the problem identified by the patent, only one choice for the “location” to split the device makes sense—the location where a structural variation begins through tapering. To choose any other location would stymie the patent’s purpose, because the parameters assigned to the two areas could no longer account for the fact that the structure is consistently narrow below the location, and wide above the location.

b) The other claims determine that the “location” based on where tapering begins

The language of unasserted claims can also assist in the interpretation of asserted claims. *See Vitronics*, 90 F.3d at 1582. Here, the language of several dependent claims makes clear that

the claimed “location” is where a structural variation through tapering begins. Claims 3, 5, and 6, which depend from claim 1, collectively describe a method by which to determine whether the claimed “location” is in relationship to two identified memory layers. ’838 Patent at 36:36-43, 36:50-58.⁷ First, in claim 3, a parameter is measured for each of the two memory layers and compared to determine if the difference satisfies a threshold. *Id.* at 36:36-43. Claim 5 addresses the situation where the threshold is not met, in which case the “location” is determined to be above both layers. *Id.* at 36:50-53. Claim 6 addresses the situation where the threshold is met, in which case the “location” is determined to be between the layers. *Id.* at 36:54-60. Importantly, each choice is binary—the threshold is satisfied or it is not; the “location” is between the two layers or it is not. Such binary decision making is inconsistent with the existence of multiple claimed “locations.” Since the specification explains that the parameters vary based on where tapering begins, the “location” identified in claims 3, 5, and 6 must be the “location” where “tapering” begins. *See id.* at 2:10-22, 19:15-28.

Because Miron’s construction comports with the one used consistently and repeatedly throughout the intrinsic record by the patentee, and is further required by the language of other claims, the Court should adopt Micron’s construction.

⁷ Claims 14, 16, and 17, which depend from claim 12, are analogous.

D. '974 Patent Terms

1. First and Second Shapes are Different

Term	Palisade's Proposed Construction	Micron's Proposed Construction
<p>“the second shape being different from the first shape”; “the second shape being different to the first shape”</p> <p>'974 Patent, Claims 1, 12</p>	<p>Plain and ordinary meaning</p>	<p>“the second shape having a different geometric profile than the first shape”</p>

Micron's construction reflects the term's plain and ordinary meaning—i.e., for two shapes to be different, their geometric profiles must be different. Palisade attempts to avoid construction to preserve an infringement argument that the same shape having different dimensions would constitute “different” shapes.

The claims, specification, and prosecution history all evidence that the patentee understood that for two shapes to be different, they must have different geometric profiles. The claims themselves support this understanding. Although the different-shapes limitation is found in independent claims 1 and 12, dependent claim 11's requirement that the trenches have different “depths”—with no indication that depth is a species of shape—illustrates that the patentee understood “shape” to mean something different than “depth” alone. *See Phillips*, 415 F.3d at 1314 (“[T]he presence of a dependent claim that adds a particular limitation gives rise to a presumption that the limitation in question is not present in the independent claim.”).

The specification similarly makes clear that trenches having different shapes are those with different geometric profiles. For example, Figure 5, reproduced right, illustrates first trenches T1 and second trenches T2

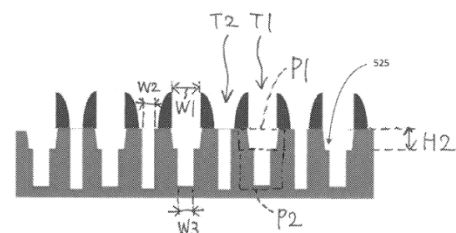
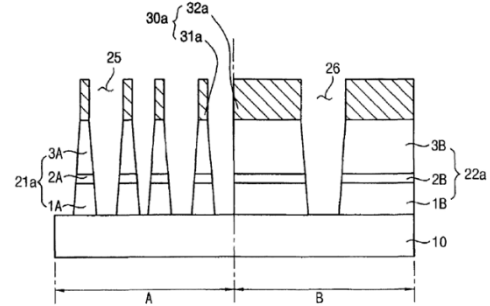


FIG. 5

having distinct geometric profiles. Figures 5 and 8 provide similar illustrations.

The prosecution history also supports Micron’s construction. During prosecution, the patentee amended claims 1 and 12 to require “the second shape being different from[/to] the first shape.” Ex. 14 (’974 File History, 8/22/16 Claim Amendments) at 2, 4. In distinguishing prior art to Min, the patentee argued that trenches 25 and 26 of Min’s Figure 1G (reproduced right)



appears “to have the same shape,” despite trench 25 being narrower than trench 26.⁸ *Id.* (’974 File History, 8/22/16 Applicant Remarks) at 7. In other words, the patentee argued that two trenches having the same geometric profile but different dimensions has “the same shape.” Nevertheless, under Plaintiff’s construction two differently sized rectangles would be different shapes despite having the same geometric profile. Thus, the intrinsic evidence shows that the claimed “the second shape being different from the first shape” requires a difference in the trenches’ geometric profiles.

2. Alternating Pattern

Term	Palisade’s Proposed Construction	Micron’s Proposed Construction
“[an] alternating pattern” ’974 Patent, Claims 1, 12	Plain and ordinary meaning	“[a] sequence wherein the first and the second trenches repeat every other”

Micron’s construction reflects the term’s plain and ordinary meaning—i.e., alternating means repeating every other instance. Palisade attempts to avoid construction so it can argue that “alternating” covers patterns that do not repeat every other instance.

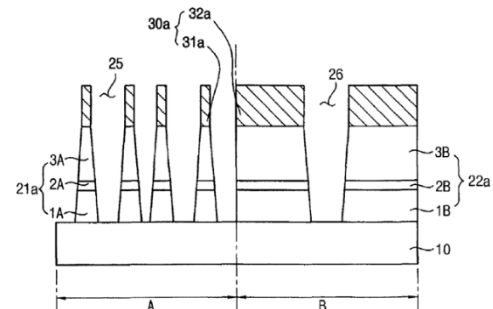
⁸ Min explains that its “first and second trenches 25 and 26 may have different widths at upper and lower portions thereof, respectively.” U.S. Patent No. 8,247,291 (Min) at 11:65-67.

a) The Intrinsic Evidence Supports Micron's Construction

First, the surrounding claim language suggests that the first and second trenches repeat in an every-other or odd-even pattern. Claim 1 recites “the first and second trenches arranged in an alternating pattern that alternates from first trench to second trench along a second direction that is perpendicular to the first direction.” Claim 12 similarly notes that the shapes are arranged in an “odd-even alternating pattern along a direction that is perpendicular to the first direction.” The claims require a first (odd) trench followed by a second (even) trench, which is then followed by a first (odd) trench, such that the sequence of first and second trenches are repeated to form an alternating pattern.

Second, the specification also supports Micron's construction. The specification describes “alternat[ing] between two different profiles.” '974 Patent at 2:9-11; 8:18-20. In describing Figure 5, the specification describes an odd-even pattern: “*Trenches alternate between first and second types, T1 and T2, in an odd-even arrangement, i.e. T1 trenches may be considered odd numbered and T2 trenches may be considered even numbered where trenches are numbered sequentially by physical location.*” *Id.* at 9:35-40. Indeed, the patent is uniform in its description and depiction that first trenches T1 and second trenches T2 *always* repeat every other along the same direction. *See, e.g.*, Figs. 5, 8, and 9A. Thus, the specification does not contemplate any intervening trenches between a first trench and second trench or any pattern other than every other trench as an alternating pattern.

Third, the prosecution history supports Micron's construction. During the prosecution of the '974 claims, the examiner cited Min's Figure 1G (reproduced right) as anticipating “first and second trenches arranged in an alternating pattern.” Ex. 14 (5/26/16 Non-Final Rejection)



at 2-3. The patentee amended claim 1 to require an alternating pattern “that alternates from first trench to second trench along a second direction that is perpendicular to the first direction.” *Id.* (8/22/16 Claim Amendments) at 2. The patentee made a similar amendment to claim 12, adding “odd-even” before the first trenches and second trenches’ alternating pattern and “along a direction that is perpendicular to the first direction such that two first trenches are separated by a second trench.” *Id.* at 4.

In light of these amendments, the patentee distinguished the prior art by arguing that Figure 1G “does not show a pattern that alternates between trenches 25 and 26 along the cross section shown. Trenches 25 are located in area A (to the left) while trench 26 is located in area B (to the right).” *Id.* (8/22/16 Applicant Remarks) at 7. The patentee contrasted this with the intrinsic evidence discussed above, noting that Figure 9A “shows an alternating pattern that alternates from trench T1 to differently shaped trench T2 along the cross section shown.” *Id.*

The applicant’s amendments clarify and support what is clear from the claims and specification—that only a trench pattern of every other is sufficient to meet the “alternating pattern” claim limitation, as reflected in Micron’s proposed construction.

b) Dictionary Definitions Support Micron’s Construction

Dictionary definitions of “alternat[ing]” further support Micron’s proposed construction. For example, the New Oxford American Dictionary defines “alternat[ing]” as “every other; every second.” *See* Ex. 7. Other dictionaries provide similar definitions:

Dictionary	Definition of “Alternat[ing]”
Collins English Dictionary (7th ed. 2005), Ex. 8	1. to occur or cause to occur successively or by turns. 2. To swing repeatedly from one condition, action, etc, to another. 3. To interchange regularly or in succession ... 6. Occurring by turns. 7. <i>Every other or second one of a series</i>
New Oxford American Dictionary (2nd ed. 2005), Ex. 7	occur in turn repeatedly; do or perform in turn repeatedly; <i>every other; every second; each following and succeeded by the other in a regular pattern; (of a sequence) consisting of alternate items</i>
Merriam Webster’s Collegiate Dictionary (11th ed. 2008), Ex. 9	1: occurring or succeeding by turns. 2a: Arranged first on one side and then on the other at different levels or points along an axial line. b: arranged one above or alongside the other. 3: <i>every other : every second</i>
The American Heritage Dictionary (4th ed. 2006), Ex. 10	1a. To occur in a successive manner. b. To act or proceed by turns. 2. To pass back and forth from one state, action, or place to another.
Dictionary of Science and Technology Simon Collin (2nd ed. 2007), Ex. 11	1. changing from one to another. 2. Every other
Random House Webster’s Unabridged Dictionary (2nd ed. 2001), Ex. 12	1. to interchange repeatedly and regularly with another in time or place; rotate. 2. To change back and forth between conditions, states, actions, etc. 3. To take turns. 4. To reverse direction or sign periodically... 6. To perform or do in succession or one after another. 7. To interchange successively or regularly. 8. Being in a constant state of succession or rotation; interchanged repeatedly one for another... 10. Every second one of a series

IV. CONCLUSION

Because Micron’s constructions are supported by the intrinsic record and Palisade’s constructions ignore it, the Court should adopt Micron’s proposed constructions.

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Respectfully submitted,

/s/ John Kappos

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on July 30, 2025. Any other counsel of record will be served by facsimile transmission, e-mail and/or first class mail.

/s/ John Kappos