

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CYTONOME/ST, LLC,)	CASE NO.: 1:19-cv-00301-RGA
)	
Plaintiff/Counterclaim-Defendant,)	
)	
v.)	
)	
NANOCELLECT BIOMEDICAL, INC.,)	DEMAND FOR JURY TRIAL
)	
Defendant/Counterclaim-Plaintiff,)	
)	
)	
)	

DEFENDANT’S IDENTIFICATION OF CLAIM TERMS FOR CONSTRUCTION

Pursuant to the Scheduling Order (D.I. 15), entered on May 8, 2019, Defendant/Counterclaim-Plaintiff NanoCollect Biomedical, Inc. (“NanoCollect”) hereby provides its list of claim terms from U.S. Patent Nos. 6,877,528 (“’528”), 8,623,295 (“’295”), 9,011,797 (“’797”), 9,339,850 (“’850”), 10,029,263 (“’263”), 10,029,283 (“’283”), 10,065,188 (“’188”) to be construed by the Court.

NanoCollect bases this disclosure on its current knowledge, understanding, and beliefs as to the facts and information available as of the date of this identification. NanoCollect has not yet completed its investigation, collection of information, discovery, or analysis related to this action. NanoCollect reserves the right to identify additional terms for construction if fact discovery or arguments asserted by Plaintiff/Counterclaim-Defendant Cytonome/ST, LLC (“Cytonome”) demonstrate that additional constructions are necessary. Furthermore, NanoCollect reserves the right to propose and/or identify additional terms for construction based on the claim terms and limitations Cytonome identifies for construction or as a result of

discussions with Cytonome regarding the identification and number of claim terms to propose for construction.

Although the chart lists only those claims in which the listed claim terms or phrases actually appear, applicable claims include any claims that depend from the listed claim. The listed claim terms and phrases are intended to include substantively similar variations of the terms, though such variations and the asserted claims in which they appear may be omitted from the chart for the sake of efficiency. NanoCollect is available to meet and confer for the purposes of limiting the terms in dispute by narrowing or resolving differences and facilitating the ultimate preparation of a Joint Claim Construction Chart.

No.	Patent Claims	Claim Terms
1	'528 cls. 1, 2, 4, 8, 10, 11, 17, 18, 22, 23, 25 '295 cl. 2 '797 cl. 13 '850 cls. 1-3, 10 '263 cls. 2, 8, 12, 15, 19 '283 cls. 1, 2 '188 cls. 1, 12, 15	"actuator"
2	'528, cls. 1, 2, 10	"regulating" and variants "regulate"
3	'528 cls. 1, 17	"valve"
4	'528 cls. 1, 9, 17, 18, 22 '295 cls. 1, 4, 9 '797 cls. 1, 3-7, 12, 18 '850 cl. 1 '263 cls. 1, 15, 19 '188 cls.	"absorbing" and variants including "absorbs"
5	'528 cl. 1	"induced"
6	'528 cls. 2, 8, 10, 17, 18, 20, 22 '295 cls. 16, 17 '850 cls. 1, 3 '188 cls. 1, 12, 17	"deflect" and variants "deflectable," "deflection," "deflecting"
7	'528 cls. 4 '263 cls. 1, 15, 19 '188 cls. 12, 17	"generate" and variants "generated," "generating"
8	'528 cls. 7, 8	"movable membrane"
9	'528 cls. 9, 10, 23, 24 '295, cl. 17	"flexible membrane"

10	'528 cl. 9	"a second plate for enclosing the microchannel bonded to the first plate"
11	'528 cl. 17	"bubble valve"
12	'528 cls. 17, 18, 20, 22 '850 cl. 1 '263 cls. 1, 13-15, 19 '188 cls. 1, 12	"stream of particles"
13	'528 cls. 17, 18, 22 '850 cl. 3	"carrier fluid" and variants "carrier liquid"
14	'528 cls. 17, 18, 19, 22 '295 cls. 1-4, 9, 10 '797 cls. 1-5, 7, 12-16, 18, 19 '850 cls. 1, 7, 8, 12 '263 cls. 1, 5, 6, 15, 16, 19, 20 '188 cls. 1, 12, 17	"pressure pulse"
15	'528 cls. 17, 18, 22 '188 cls. 1, 12	"from the stream of particles"
16	'528 cl. 17 '850 cl. 3 '263 cl. 18	"the side channel"
17	'528 cls. 18, 22, 24, 26 '850 cls. 1, 4, 5, 9, 11, 12	"buffer"
18	'528 cl. 18 '850 cl. 1	"for selectively applying"
19	'528 cl. 22	"a first side channel"
20	'528 cls. 17, 22 '850 cls. 3, 4	"in communication"
21	'528 cs. 25, 26	"sealed reservoir"
22	'528 cl. 1	"a second reservoir for absorbing a pressure variation in the microchannel induced by the actuator"
23	'528 cl. 4	"generates a gas bubble"
24	'528 cl. 9	"a second reservoir formed on a second side of the groove opposite the first reservoir for absorbing pressure variations in the groove"
25	'528 cl. 22	"an actuator connected to the first side channel"
26	'528 cl. 25	"the actuator comprises air trapped in a sealed reservoir"
27	'295 cl. 1	"a first reservoir operatively associated with the flow channel and adapted for dampening or absorbing a pressure pulse propagated across the flow channel"

28	'797 cl. 1	"dampening or absorbing the pressure pulse using a first reservoir in fluid communication with the microfluidic flow channel"
29	'295 cls. 1, 2 '797 cls. 13, 14 '263 cls. 5, 15, 16, 20	"operatively associated"
30	'295 cls. 1, 4, 9 '797 cls. 1, 3-7, 12, 18 '850 cl. 1 '263 cls. 1, 15, 19	"dampen" and variants "dampening"
31	'295 cl. 1 '797 cl. 5 '263 cls. 1, 15, 16, 19	"propagated" and variants "propagating"
32	'295 cl. 2 '797 cl. 13	"pressurizer"
33	'295 cl. 9 '797 cls. 4, 12	"resilient wall"
34	'295 cls. 1, 10 '797 cls. 3, 5, 7, 15	"facilitate"
35	'797 cl. 5 '283 cls. 1, 6	"otherwise sealed" and variants "otherwise sealed from"
36	'797 cls. 6, 7, 12	"resilient properties"
37	'850 cl. 1	"configured to fluidically co-operate with the actuator"
38	'850 cl. 3	"a sealed chamber positioned adjacent to the side channel, wherein the carrier liquid forms a meniscus in the side channel to separate the sealed chamber from the carrier liquid"
39	'850 cl. 3	"modifying"
40	'850 cl. 5	"movable wall"
41	'263 cls. 1, 2, 5-8, 12, 13, 19-21	"switching device"
42	'263 cls. 1, 19	"operatively coupled"
43	'263 cls. 1, 14, 19	"from the fluidic stream of particles"
44	'850 cl. 9 '263 cls. 1, 13, 15, 19 '283 cls. 1, 5	"upstream"
45	'263 cls. 1, 15, 16, 19	"downstream"
46	'263 cls. 2, 12	"integrally provided on"
47	'263 cls. 1, 2, 12, 15	"activate" and variants "activated"
48	'263 cls. 5, 16, 20	"originate" and variants "originating"
49	'263 cls. 2, 12	"external actuator"
50	'263 cl. 12	"operatively engage"
51	'263 cls. 13, 15	"pressure wave"

52	'263 cls. 15, 17, 18 '188 cl. 11	“switch component” and variants “switch element”
53	'263 cl. 15	“deactivating”
54	'263 cl. 17	“flexing”
55	'263 cl. 18	“not a flow through channel”
56	'850 cls. 10, 11	“non-flow-through chamber”
57	'188 cl. 1	“microsorter having a switching region and a microfluidic channel formed in the microfluidic chip fluidically coupled to a sample input a keep output, a waste output, and the switching region”
58	'188 cl. 1	“wherein the switching region, when actuated by the actuator upon detection of a predetermined characteristic of a selected particle, directs a pressure pulse across the microfluidic channel to deflect the selected particle from the stream of particles”
59	'188 cl. 12	“the microfluidic chip including at least one microsorter having a switching region, and a microfluidic channel formed in the microfluidic chip fluidically coupled to a sample input a keep output, a waste output, the switching region”
60	'188 cls. 1, 12, 17	“fluidically coupled”
61	'188 cls. 1, 12, 17	“external to the microfluidic chip” and variants “external to the particle processing assembly,” “external to the microfluidic particle sorting component”
62	'188 cls. 17, 19	“operatively interfacing”

Dated: October 11, 2019

WILSON SONSINI GOODRICH & ROSATI, P.C.
Professional Corporation

/s/ Ian R. Liston

Ian R. Liston (#5507)
222 Delaware Avenue, Suite 800
Wilmington, DE 19801
(302) 304-7600
iliston@wsgr.com

Of Counsel:

Douglas Carsten
WILSON SONSINI GOODRICH & ROSATI, P.C.
12235 El Camino Real
San Diego, CA 92130
Phone: (858) 350-2300
dcarsten@wsgr.com

*Attorneys for Defendant/Counterclaim-Plaintiff
Nanocollect Biomedical, Inc.*

CERTIFICATE OF SERVICE

I, Ian R. Liston, hereby certify that on October 11, 2019, I caused the foregoing
DEFENDANT'S IDENTIFICATION OF CLAIM TERMS FOR CONSTRUCTION to be
served via electronic mail upon the following counsel of record:

Rodger D. Smith II (rsmith@mnat.com)
Anthony D. Raucci (araucci@mnat.com)
MORRIS, NICHOLS, ARSHT & TUNNELL LLP
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899

Kirt S. O'Neill(koneill@akingump.com)
Daniel L. Moffett (dmoffett@akingump.com)
AKIN GUMP STRAUSS HAUER & FELD LLP
112 E. Pecan Street, Suite 1010
San Antonio, Texas 78205

Thomas W. Landers IV (twlanders@akingump.com)
AKIN GUMP STRAUSS HAUER & FELD LLP
1111 Louisiana Street, 44th Floor
Houston, Texas 77002

Attorneys for Plaintiff Cytonome/ST, LLC

Ian R. Liston (#5507)