

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CYTONOME/ST, LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 19-301 (RGA)
)	
NANOCELLECT BIOMEDICAL, INC.,)	
)	
Defendant.)	

CLAIM CONSTRUCTION ORDER

The Court, having considered the parties’ Joint Claim Construction Brief and Supplemental Briefing (D.I. 66, 82, and 84) and heard oral argument at the claim construction hearing by videoconference on April 28, 2020 (D.I. 81), and in accordance with the reasoning set forth in the Court’s Memorandum Opinion (D.I. 85), **IT IS HEREBY ORDERED** that the terms of U.S. Patent Nos. 6,877,528 (“’528 Patent”); 8,623,295 (“the ’295 Patent”); 9,011,797 (“the ’797 Patent”); 9,339,850 (“the ’850 Patent”); 10,029,263 (“the ’263 Patent”); 10,029,283 (“the ’283 Patent”); and 10,065,188 (“the ’188 Patent”) (collectively, “the Asserted Patents”) are construed as set forth in the charts below.

I. AGREED-UPON TERMS

The parties agreed upon the construction of certain terms of the Asserted Patents, and the Court accepts them as set forth below for the purposes of this litigation:

Claim Term	Agreed Construction
“generate,” “generated,” and “generating” <u>Claims:</u> ’263 Patent – Claims 1, 15 ’188 Patent – Claims 12, 17 ’295 Patent – Claims 1, 2 ’797 Patent – Claim 13	“create,” “created,” “creating”

Claim Term	Agreed Construction
“switching device” and “switch component” <u>Claims:</u> ’263 Patent – Claims 1, 5, 8, 15	“a component separate from the actuator for switching”
“switch element” <u>Claims:</u> ’188 Patent – Claim 15	“a component separate from the actuator for switching”
“originate” and “originating” <u>Claims:</u> ’263 Patent – Claims 5, 16	“create” and “creating”
“dampen” and “dampening” <u>Claims:</u> ’295 Patent – Claims 1, 9 ’797 Patent – Claims 1, 18 ’850 Patent – Claim 1 ’263 Patent – Claims 1, 15	“to meaningfully dissipate”

II. DISPUTED TERMS

The parties have disputed the constructions of certain other terms of the Asserted Patents.

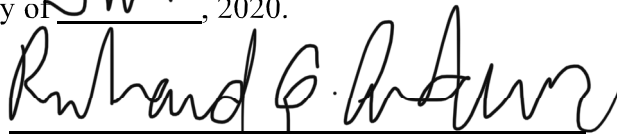
The Court adopts the following constructions of those terms:

Claim Term	Court’s Construction
“buffer” <u>Claims:</u> ’528 Patent – Claims 18, 22, 24 ’850 Patent – Claims 1, 11	“a reservoir of fluid that absorbs a pressure pulse”

Claim Term	Court's Construction
<p>“reservoir”</p> <p><u>Claims:</u> '295 Patent – Claim 1 '263 Patent – Claims 1, 5, 15, 16 '797 Patent – Claims 1, 18</p>	Plain and ordinary meaning
<p>“absorbing”</p> <p><u>Claims:</u> '528 Patent – Claims 18, 22 '295 Patent – Claims 1, 9 '797 Patent – Claims 1, 18 '850 Patent – Claim 1 '263 Patent – Claims 1, 15</p>	Plain and ordinary meaning
<p>“pressure pulse”</p> <p><u>Claims:</u> '528 Patent – Claims 18, 20, 22 '295 Patent – Claims 1–3, 9 '797 Patent – Claims 1, 2, 13, 16, 18, 19 '850 Patent – Claims 1, 7, 8 '263 Patent – Claims 1, 5, 6, 15, 16 '188 Patent – Claims 1, 12, 17</p>	Plain and ordinary meaning
<p>“otherwise sealed”</p> <p><u>Claims:</u> '283 Patent – Claims 1, 6</p>	“sealed in all other aspects”
<p>“selectively applying”</p> <p><u>Claims:</u> '528 Patent – Claim 18 '850 Patent – Claim 1</p>	Plain and ordinary meaning

Claim Term	Court's Construction
<p>“an actuator connected to the first side channel”</p> <p><u>Claims:</u> '528 Patent – Claim 22</p>	Plain and ordinary meaning
<p>“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 a switching region”</p> <p><u>Claims:</u> '188 Patent – Claim 1</p>	Plain and ordinary meaning
<p>“from the stream of particles” and “from the fluidic stream of particles”</p> <p><u>Claims:</u> '528 Patent – Claims 18, 22 '188 Patent – Claims 1, 12 '263 Patent – Claim 1</p>	Plain and ordinary meaning
<p>“carrier fluid”</p> <p><u>Claims:</u> '528 Patent – Claims 18, 22</p>	Plain and ordinary meaning

IT IS SO ORDERED this 2 day of June, 2020.


 UNITED STATES DISTRICT JUDGE