IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

INTELLECTUAL VENTURES II LLC,	)	
	)	
Plaintiff,	)	C.A. No. 1:24-cv-00884-ADA
	)	
v.	)	
	)	JURY TRIAL DEMANDED
TESLA, INC.,	)	
	)	
Defendant.	)	

PLAINTIFF INTELLECTUAL VENTURES II LLC'S
RESPONSE TO OPENING CLAIM CONSTRUCTION BRIEF

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I. INTRODUCTION

Tesla improperly uses the claim construction process to assert undisclosed indefiniteness arguments and improperly seeks to import limitations into the claims. The Court should reject Tesla's assertions. As shown below, Tesla waived its "indefiniteness" arguments by failing to timely disclose them. Moreover, Tesla conjures issues of what it calls antecedent basis and terms of degree when a careful reading of the entire claim—in context—shows Tesla's positions are erroneous. Even if Tesla identified lack of antecedent basis or a term of degree (which it did not), the claim terms are sufficiently clear for a person of ordinary skill in the art ("POSITA") to understand them with reasonable certainty. Accordingly, Tesla fails to meet its heavy burden of clear and convincing evidence to show any of the claims are indefinite.

The remainder of Tesla's arguments simply seek improperly to import limitations into the claims. Tesla cannot rewrite the claims of a duly issued and examined patent.[1]

II. BRIEF OVERVIEW OF ASSERTED PATENTS WITH TERMS IN DISPUTE

A. The '639 Patent

The '639 Patent is directed to distinguishing targets from background clutter. D.I. 26-2 ('639 Patent) at Abstract; 1:24-25; 5:15-16. As an exemplary embodiment, the Patent describes utilizing the steps of: (i) inputting data (*e.g.*, one-dimensional or multidimensional data, such as digitized infrared imagery, digitized TV imagery, speech samples, or radar samples); (ii) calculating data statistics from the data and using said data statistics to select target specific feature information (*e.g.*, contrast-based and texture-based) to distinguish specific targets from background clutter; (iii) generating the target-specific feature information from the data statistics; (iv) extracting the target-specific feature information from the data; (v) using the target-specific

[1] Submitted herewith is the February 10, 2025 Declaration of Jonathan K. Waldrop, with exhibits ("Ex.").

feature information to distinguish specific targets from background clutter (*e.g.*, parametric and non-parametric techniques and one-class, two-class, or multi-class classification procedures); and (vi) outputting target and background clutter information. *Id*. at 5:16-30. In a further example, the patented method may use Hebbian Learning to distinguish and take advantage of second order correlation information. *Id*. at 5:30-32.

While the Patent's embodiments focus on "automatic target recognition," the Patent is not limited to a single embodiment. *Id*. at 6:13. For example, the "described learning and classification methods extend to a variety of pattern recognition domains." *Id*. at 6:14-15. The Patent includes other examples and explains that the "invention may be implemented in software and hardware configurations as well." *Id*. at 6:15-17; *see also* 11:63-66 ("alternate procedures that share the same functionally as the procedures discussed, supra, such as alternate classification techniques or data inputs, are plainly within the scope of the invention").

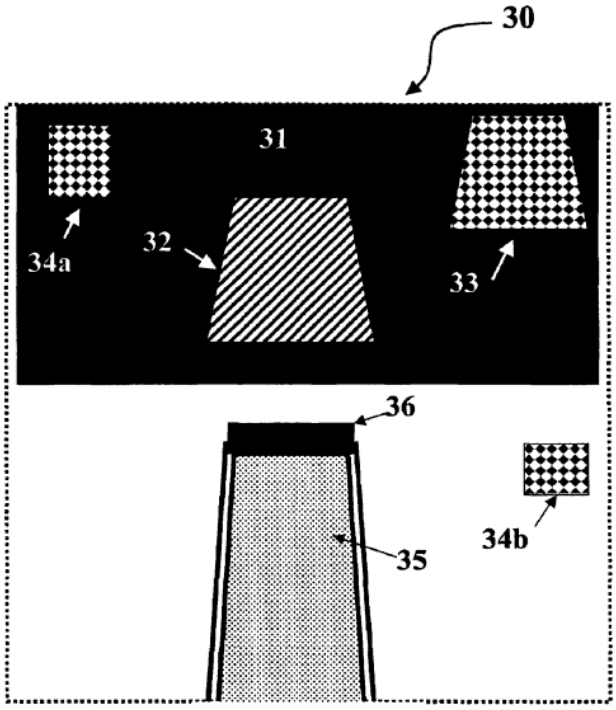
B. The '805 Patent

The '805 Patent is directed to a docking assistant, which, for example, "guide[s] the motor vehicle along a specific course." D.I. 26-3 ('805 Patent) at Abstract; *see also* 1:6-9 ("The present invention is directed to a method for assisting vehicle guidance on the basis of image data, particularly when maneuvering trucks toward docking stations, as well as to a device suited for implementing the method").

In one example, the invention describes a system "for assisting a motor vehicle guidance on the basis of image data, in particular for maneuvering trucks toward docking stations." *Id*. at 3:24-26. For example, "image data are acquired by an imaging sensor from the surrounding field of a vehicle and, from these data, the positional parameters of at least one potential destination relative to the motor vehicle are extracted. This results in the calculation of a trajectory describing

an optimized travel path in order to assist a subsequent vehicle guidance for at least one of the potential destinations." *Id.* 3:27-33.

Figure 3 shows exemplary application of a truck attempting to reach a cargo door.



C. The '395 Patent

The '395 Patent is directed to methods and systems for maintaining cache consistency. D.I. 26-4 ('395 Patent) at Abstract. The Patent describes one embodiment as follows:

> a group of instructions is executed. The group of instructions can include multiple memory operations, and also includes an instruction that when executed causes a cache line to be accessed (e.g., read, write, store, load, etc.). In response to execution of that instruction, an indicator associated with the group of instructions is updated to indicate that the cache line has been accessed. The cache line is indicated as having been accessed until execution of the group of instructions is ended. If an external agent (e.g., another processor or a DMA system) Snoops the cache and the cache line (or any other cache line in the cache, for that matter) is indicated as having been accessed, then the instruction group is rolled back and reissued. If an external agent (e.g., another processor or a DMA system) Snoops the cache and no cache line is indicated as having been accessed,

> then the Snoop can be processed using a conventional cache coherency protocol (MESI, for example).

Id. at 2:9-25.

The Patent also summarizes an embodiment of the invention in Figs. 3 and 4, reproduced below.

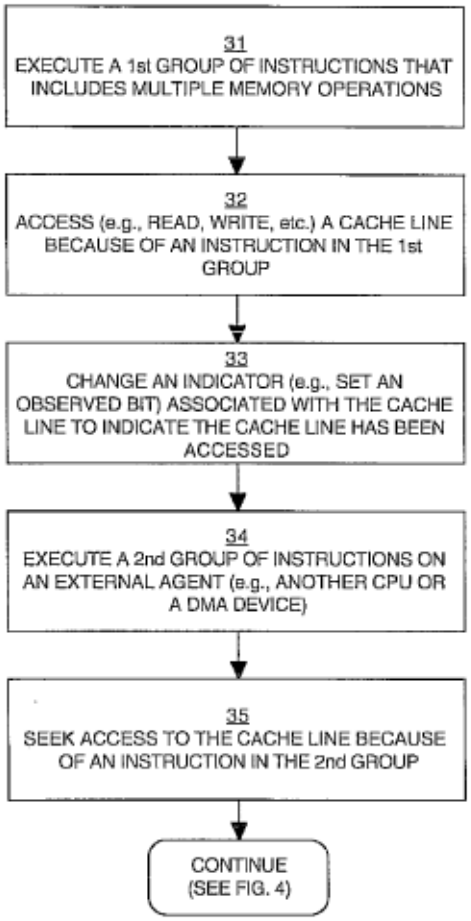


Figure 3

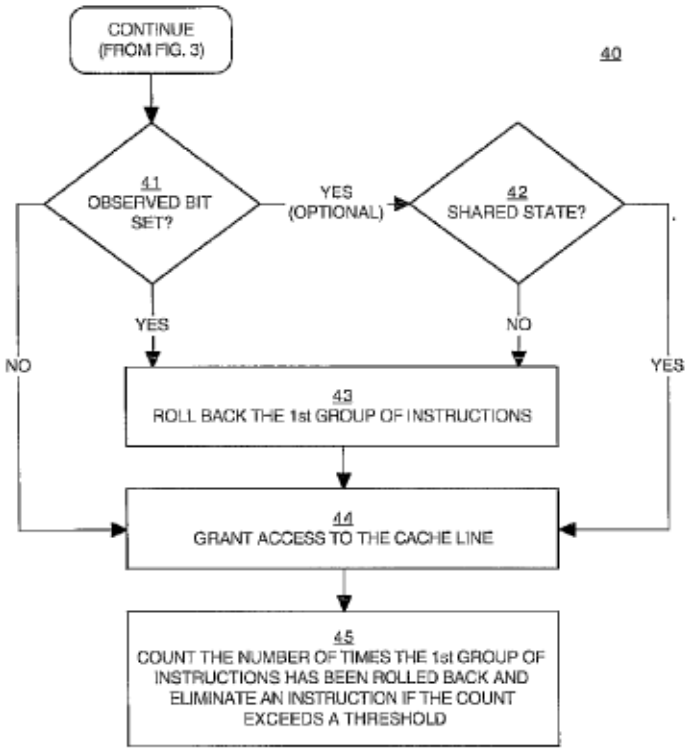


Figure 4

For example, the process in Figure 3 describes how a first group of instructions executes and interacts with a cache line, potentially leading to conflicts with a second group of instructions. In step 31, the first group of instructions, which may include multiple memory operations, is executed, potentially accessing a cache line. Step 32 confirms this access, while step 33 sets an indicator (*e.g.*, an observed bit) to track the cache line's usage by the first instruction group until execution ends. In step 34, a second group of instructions, executed by an external DMA agent, may also attempt to access the same cache line. Step 35 determines whether the cache line access is associated with the second instruction group, affecting how the system handles the first group of instructions, particularly if access occurs in a different order than expected.

Additionally, the process in Fig. 4 involves determining whether a cache line has been accessed due to a specific instruction group and managing access or rollback accordingly. In step 41, the system checks the observed bit for the cache line and instruction group; if set, it may proceed to either step 42 or step 43, depending on, for example, the observed bits. Step 42 evaluates whether the cache line is in a shared state under the MESI protocol, allowing access (step 44) if shared or triggering a rollback (step 43) otherwise. Step 43 rolls back the first instruction group, clearing associated observed bits and potentially rolling back other instruction groups linked to those bits. Finally, if access conditions are met, step 44 grants access to the cache line.

D. The ’416 Patent

The ’416 Patent is directed to communicating on a shared channel in wireless network. D.I. 26-5 (’416 Patent) at Abstract. For example, embodiments of the invention “may allow improved use of the communication resource in the communication system, for example by allowing physical resource to be dynamically switched between different channel types.” *Id*. at 6:1-4.

III. LEGAL STANDARD

It is a “bedrock principle of patent law that the claims of a Patent define the invention to which the patentee is entitled the right to exclude.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1315-19 (Fed. Cir. 2005) (*en banc*) (quotation marks omitted). “[T]he words of a claim are generally given their ordinary and customary meaning[,]” *i.e.*, “the meaning that the term would have to a [POSITA] in question at the time of the invention.” *Id.* at 1312-13 (quotation marks omitted). “There are only two exceptions to this general rule: 1) when a patentee sets out a definition and acts as his own lexicographer, or 2) when the patentee disavows the full scope of a claim term either in the specification or during prosecution.” *Thorner v. Sony Computer Entm’t Am. LLC,* 669 F.3d 1362, 1365 (Fed. Cir. 2012) (internal citation omitted). Moreover:

> It is … not enough that the only embodiments, or all of the embodiments, contain a particular limitation. We do not read limitations from the specification into claims; we do not redefine words. Only the patentee can do that. To constitute disclaimer, there must be a clear and unmistakable disclaimer.

Id. Absent a clear and unmistakable disclaimer, it is improper to "interpret claim terms in a way that excludes embodiments disclosed in the specification." *Oatey Co. v. IPS Corp.*, 514 F.3d 1271, 1276 (Fed. Cir. 2008).

"[T]he best source for understanding a technical term is the specification from which it arose, informed, as needed, by the prosecution history"—*i.e.*, the intrinsic record. *Phillips*, 415 F.3d at 1315 (citation omitted). Because prosecution reflects an "ongoing negotiation … rather than the final product of that negotiation, it often lacks the clarity of the specification and thus is less useful for claim construction purposes." *Id.* at 1317. Courts may also "rely on extrinsic evidence, which consists of all evidence external to the patent and prosecution history, including expert and inventor testimony, dictionaries, and learned treatises." *Id.* (quotation marks omitted). But "while extrinsic evidence can shed useful light on the relevant art, … it is less significant than the intrinsic record in determining the legally operative meaning of claim language." *Id.* (quotation marks omitted).

A "patent claim is indefinite if, when read in light of the specification delineating the patent, and the prosecution history, the claim fail[s] to inform, with reasonable certainty, those skilled in the art about the scope of the invention…. Reasonable certainty does not require absolute or mathematical precision." *BASF Corp. v. Johnson Matthey Inc.*, 875 F.3d 1360, 1365 (Fed. Cir. 2017) (internal quotations and citations omitted). Defendant carries "the burden of proving indefiniteness by clear and convincing evidence." *Id.*

The "'failure to provide explicit antecedent basis for terms does not always render a claim indefinite. If the scope of a claim would be reasonably ascertainable by those skilled in the art,

then the claim is not indefinite.'" *Imperium (IP) Holdings, Inc. v. Apple Inc.*, No. 4:11-CV-163, 2012 WL 6967236, at *4 (E.D. Tex. July 2, 2012), *report and recommendation adopted*, No. 4:11-CV-163, 2013 WL 395143 (E.D. Tex. Jan. 31, 2013) (citing Manual of Patent Examining Procedure § 2173.05(e) (8th ed., rev.8, July 2010)).

"Claim language employing terms of degree has long been found definite where it provided enough certainty to one of skill in the art when read in the context of the invention." *Interval Licensing LLC v. AOL, Inc.*, 766 F.3d 1364, 1370 (Fed. Cir. 2014).

IV. LEVEL OF ORDINARY SKILL IN THE ART

IV disputes Tesla's definitions to the extent that they are inconsistent with the law, technology, or level of skill of a person of ordinary skill at the time of the invention. However, solely for purposes of argument here, IV applies without adopting Tesla's definition of a POSITA.

V. AGREED CONSTRUCTIONS

Patent	Claim(s)	Terms/Phrases	Agreed Construction
9,706,500	11	"multi-level transmit power control (TPC) command" / "multi-level TPC command"[2]	Plain and ordinary meaning.
10,952,153	1	"multi-level TPC command"[3]	Plain and ordinary meaning.
7,181,743	10	preamble	Limiting
9,232,158	1, 8	"integration time"	"the time the image sensor collects and integrates signal from the scene."
9,232,158	1	"[A]n image capture device"	"a device including a plurality of sensors, where two or more of the plurality of sensors each capture an overlapping portion of the same scene."

[2] After extrinsic evidence of the parties was disclosed, Tesla withdrew its indefiniteness arguments. Ex. A (Dec. 5, 2024 Tesla Construction Disclosure).
[3] After extrinsic evidence of the parties was disclosed, Tesla withdrew its indefiniteness arguments. Ex. A (Dec. 5, 2024 Tesla Construction Disclosure).

VI. DISPUTED TERMS

A. "target feature information" ('639 Patent, claim 1)[4]

IV's Proposal	Tesla's Proposal
Plain and ordinary meaning. Not indefinite.	Indefinite.

As a preliminary matter, Tesla failed to raise the basis of its purported indefiniteness arguments until now, months after it was required to disclose its alleged invalidity theories. D.I. 25 at 1 (requiring the basis for its indefiniteness be disclosed by October 24, 2024). Tesla's belated disclosure applies across the board to each of its indefiniteness arguments. Accordingly, each one should be stricken for the same or similar reasons.

With respect to the '639 Patent, Tesla's original claim construction disclosure did not even identify any antecedent basis issue. Ex. A (Dec. 5, 2024 Tesla's Construction Disclosure lacking the word "said"). Tesla should not be allowed to improperly withhold its theories. *See Seven Networks, LLC v. Google LLC*, No. 2:17-CV-00442-JRG, 2018 WL 4501952, at *3 (E.D. Tex. July 11, 2018) (striking in part untimely indefiniteness argument); *Auxilium Pharms., Inc. v. Watson Lab'ys, Inc.*, No. CIV.A. 12-3084 JLL, 2014 WL 2624780, at *5 (D.N.J. June 12, 2014) ("because [defendant] did not raise an indefiniteness defense in its invalidity contentions, the Court concludes [defendant] cannot now seek a determination that the patents-at-issue are invalid for indefiniteness through claim construction"); *Finisar Corp. v. DirecTV Grp., Inc.*, 424 F. Supp. 2d 896, 901-902 (E.D. Tex. 2006) ("Invalidity is an affirmative defense, and the party which does not properly investigate applicable prior art early enough to timely meet disclosure requirements risks exclusion of that evidence."). Indeed, despite Tesla serving contentions with over 100 exhibits and a cover pleading that was 136 pages, Tesla failed to identify its basis for indefiniteness other than

[4] Tesla's December 5, 2024 Construction Disclosure did not identify the term "said." Ex. A at 2.

a conclusory copy and paste of claim language. Ex. B at 119-120 (Tesla's Oct. 24, 2024 Invalidity Contentions providing only a conclusory assertion of indefiniteness).

Moreover, IV provided Tesla with notice of Tesla's deficiency via email, but Tesla failed to disclose its theories until its opening brief. D.I. 26-6 at 2 (email to counsel for Tesla noting that Tesla should abide by the "court's schedule for disclosing positions" regarding indefiniteness).[5]

Tesla raises no ambiguity in the term aside from a lack of antecedent basis. D.I. 26 at 8. Even if Tesla's arguments were correct—which they are not—a lack of antecedent basis does not invalidate the claim. "The Federal Circuit has held that despite the absence of explicit antecedent basis, if the scope of a claim would be readily ascertainable by those skilled in the art, then the claim is not indefinite." *Graphon Corp. v. Autotrader.com, Inc*., No. 2-05-CV-530 (TJW), 2007 WL 1870622, at *11 (E.D. Tex. June 28, 2007) (internal quotations omitted). As explained below, the scope of a Claim 1 in the '639 Patent is readily ascertainable by those skilled in the art. This is supported not only by the claim itself, but also the specification and the prosecution history.

For example, the claim term is not indefinite when it is read in the context of the entire claim. *See Eli Lilly & Co. v. Teva Parenteral Medicines, Inc*., 845 F.3d 1357, 1371 (Fed. Cir. 2017) (considering claim's context and claim's structure in finding no indefiniteness). Here, for example, the claim itself includes several steps. In the step preceding the step with the term at issue, the claim discusses "select[ing] *target specific feature information* to distinguish *specific targets*." D.I. 26-2 ('639 Patent) at Claim 1. That target feature information is discussed in the previous step during the selection process of "specific targets." *Id*. When read in context, absence

[5] To the extent the Court reaches the issue of indefiniteness for any of the terms, it should be deferred until the summary judgment stage so experts may weigh in on the issue. Indefiniteness "is a matter more appropriately addressed on summary judgment" than at claim construction. *Mannatech, Inc. v. Techmedia Health, Inc*., No. CIV.A.306-CV-00813-P, 2009 WL 3614359, at *15 (N.D. Tex. Oct. 29, 2009)

of the word "specific" does not render the term unclear. *Id*. Rather, the term simply refers back to the target feature information of the specific targets identified in the prior step (step (b) of Claim 1). *Id*.

Moreover, the language is clear that it is intended to differentiate between feature information and background clutter. *See* D.I. 26-2 ('639 Patent) at Claim 1 ("select[ing] target specific feature information *to distinguish specific targets from background clutter*.") The word "specific" is merely meant to distinguish the particular information that is sought from background clutter. The next step reflects that that sought information can be referred to as "specific feature information" or simply "feature information" and doing so would convey the exact same idea. Accordingly, when read in the context of the Patent, there is no ambiguity.

Seemingly, Tesla argues confusion based on the placement of the word "specific" even though the claims place the modifier "specific" before or after the "target." Tesla is wrong. The placement of the modifier is of no moment and does not render the claim term unclear. For example, one may refer to Waco as a *specific* destination and can also refer to it as a destination that is *specific*.

The specification supports IV's understanding because it uses the terms "target specific" and "specific target" interchangeably. D.I. 26-2 ('639 Patent) at Abstract (discussing both "specific targets" and "target specific"); *Id*. at 5:21-26; *see also* Claim 1 at step (b) (referring both to "target specific": and "specific targets" within the same claim step). Moreover, the specification itself explains that the use of "specific" is a modifier that simply explains the type of feature information obtained. *Id*. at 7:49 ("select and generate features specific to a given target class"); 5:63-65 ("tailoring the features … to reflect the characteristics of a specific target or target class").

Accordingly, a POSITA can simply refer back to that feature information without the use of the word "specific."

Tesla's argument that the Patent somehow "distinguishes between 'target feature information' and 'target specific feature information'" strains credibility. D.I. 26 at 9-10. It is clear from both the claim and specification that the Patent is actually distinguishing between the "feature information" from "background clutter." D.I. 26-2 ('639 Patent) at Abstract ("distinguishing targets from clutter"); *id.* ("distinguish specific targets from background clutter"); *id*. at 5:15-16 ("This application discloses a method for distinguishing targets from background clutter,"); *id*. at Claim 1 Preamble ("method for distinguishing targets from background clutter").

Tesla's reference to Claim 9 also does not render Claim 1 indefinite. Tesla admits that Claim 9 is "similar in scope" to Claim 1 and raises no issues of indefiniteness with respect to Claim 9. D.I. 26 at 10. If anything, Claim 9 further supports IV's position because the Patentee is clearly referencing the "feature information" discussed in the previous step in both Claims 1 and 9. D.I. 26-2 ('639 Patent) at Claims 1, 9.

The file history also supports this interchangeability of the words "target specific" and the shorthand version, "target." *See* D.I. 26-7 at 4, 9. Applicant itself used both "target specific feature information" and the shorter version, "target feature information." *Id*. Alternating between the two was never identified as an amendment or even discussed in the file history. *Id*. at 9 (Applicant never crossed out the word "specific" or requested amendment of Claim 1). Accordingly, the examiner understood these terms to be interchangeable in that the feature information is the target specific feature information that was discussed prior.

Tesla's argument that "target feature information" is ambiguous is strained. D.I. 26 at 9-10. Indeed, Tesla identifies no real practical difference between its rendition of "a target feature

information" and "said target specific feature information," other than legalistic semantics. But that is not proper. There is no alternative read to the claims and Tesla does not suggest one. Moreover, a POSITA is typically not a linguist, philologist, or grammarian who could understand the claims definitionally, instead a POSITA is a person of skill in the industry that is familiar with the technology at issue. *Larada Scis., Inc. v. Pediatric Hair Sols. Corp.*, No. 3:18-cv-00320-KDB-DSC, 2019 WL 4024956, at *15 (W.D.N.C. Aug. 26, 2019) (noting that, because POSITA "will be an engineer... but not likely a linguist," the challenged phrase "substantially only" was not indefinite and had its plain and ordinary meaning "even if the word 'only' might have been omitted without significantly changing the ultimate practical effect of the claim language"); *Grantley Pat. Holdings, Ltd. v. Clear Channel Commc'ns, Inc.*, No. 9:06-CV-259, 2008 WL 5428186, at *1 (E.D. Tex. Apr. 21, 2008) ("the court construes a claim from the point of view of the artisan of ordinary skill, not from the vantage point of the hyper-technical grammarian").

Tesla's position is further belied by its own arguments and the arguments of its expert in its IPR petition. In an IPR, Tesla told the United States Patent and Trademark Office that "that 'said target feature information' recited in [1.3] is the 'target specific feature information' recited in [1.2], as well as [1.4] and [1.5]." Ex. C (Tesla's IPR Petition in IPR2025-00340) at 23, n.3. Tesla's expert in that IPR made the very same argument. Ex. D (Decl. of Jeffrey J. Rodriguez in Support of Tesla's IPR Petition in IPR2025-00340) at ¶ 79 ("I am treating 'said target feature information' recited in [1.3] as referring to the 'target specific feature information' recited in [1.2], as well as [1.4] and [1.5]").

For the foregoing reasons, Tesla has failed to overcome the heavy presumption that the issued claims are not indefinite. *BASF Corp. v. Johnson Matthey Inc.*, 875 F.3d 1360, 1365 (Fed. Cir. 2017) (Tesla has "the burden of proving indefiniteness by clear and convincing evidence").

B. "feature information" ('639 Patent, claim 7)

IV's Proposal	Tesla's Proposal
Plain and ordinary meaning. Not indefinite.	Indefinite.

Tesla advances identical arguments with respect to this term as well. D.I. 26 at 9-11. Accordingly, the foregoing arguments with respect to "target feature information" apply, including that Tesla's arguments are: (i) waived; (ii) incorrect when the claim term is read in context of the claims, specification, and file history; (iii) undermined by Tesla's own arguments made in its IPR related to the '639 Patent. Accordingly, Tesla failed to meet its burden. *Supra* § VI.A above.

Moreover, Tesla's lumping of this term together with the previous term ("target feature information") further shows that "feature information" is a shorthand way of referring back to the feature information related to a "specific target." D.I. 26 at 9-11. Indeed, Tesla again points to no practical difference that is caused by any ambiguity or between either of the terms it identified. *Id*. As shown above (§ VI.A), this term is clear to a POSITA for the same reasons as "target feature information."

C. "may at least partially describe a potential destination" ('805 Patent, claim 1)

IV's Proposal	Tesla's Proposal
Plain and ordinary meaning. Not indefinite.	Indefinite.

Tesla again seeks improperly to introduce new, undisclosed indefiniteness theories. Those should be considered waived for the reasons discussed above (at § VI.A) with respect to "target feature information." Indeed, Tesla should not be allowed to sit on its positions and use claim construction as an end-run around the Court's schedule. D.I. 25 at 1 (scheduling order). Despite its verbose invalidity contentions, Tesla failed to identify its basis for indefiniteness other than a conclusory copy and paste of claim language, without even particularly identifying the term at

issue. Ex. B at 120 (Tesla's Oct. 24, 2024 Invalidity Contentions failing to identify with particularity the asserted term or the basis for alleged indefiniteness); *see supra* § VI.A (the Court should disregard Tesla's indefiniteness arguments for the same reasons set forth above with respect to the '639 Patent).

Should the Court reach the merits, the term is not indefinite because it is clear when read in the context of the claim and specification. Moreover, the Patent provides examples of "may at least partially describe a potential destination." For example, the Patent describes uses of "edge segments" to detect for a "geometric object" that can "partially describe[] a potential destination." D.I. 26-3 ('805 Patent) at 2:37-41; *see also* 3:1-3 ("segmenter is a unit (12) for locating objects in the image data that have geometric shapes that typically correspond at least partially to the potential destination"); 3:39-43 (also explaining partially describing a potential destination).

Additionally, the Patent provides examples of geometric shapes that can at least partially describe a potential destination, such as objects that "have a rectangular, … square, or also, …, round shape." *Id*. at 5:15-18; *see also* 6:2-5 (also describing object shapes "rectangular," "square" and accounting for distortion manifesting as a "trapezoid"); 3:43-47 (describing an exemplar "typical destination is a docking station for trucks at a warehouse, for example, then the typical geometric form substantially corresponds to a rectangle having roughly identical side lengths of approximately 2.5 m"); 7:22-30 (providing examples of at least partially describing a potential destination, such as a "cargo door" or a warehouse "window"). Such examples show that the term is not indefinite. *See, e.g.*, *Niazi Licensing Corp. v. St. Jude Med. S.C.*, Inc., 30 F.4th 1339, 1349 (Fed. Cir. 2022) ("Taken as a whole, we conclude that the intrinsic record 'is sufficient to dispose of' the indefiniteness issues as to the terms "resilient" and 'pliable.' … The intrinsic record

provides objective boundaries by which a skilled artisan could determine the scope of the claims.").

Tesla asserts that the words "at least," "partially," and "potential" are "indisputably" terms of degree. D.I. 26 at 12. Again, Tesla is wrong. Each of these terms has been found to not include a term of degree. *See Webroot, Inc. v. Forcepoint LLC*, No. 6: 22-cv-00243-ADA-DTG, (W.D. Tex. Mar. 16, 2023) (construing "potential to violate a predefined security policy" as not indefinite); *Legacy Separators LLC v. Halliburton Energy Servs. Inc*, No. 4:14-CV-2081, 2016 WL 3017140, at *4 (S.D. Tex. May 26, 2016) (finding the term "'Partially vacate' is not indefinite"); *Keranos, LLC v. Silicon Storage Tech., Inc*., No. 2:13-CV-17, 2014 WL 47749, at *4 (E.D. Tex. Jan. 3, 2014) (construing similar phrase "at least a portion of" to mean "any portion of up to and including the whole."); *Kimberly-Clark Worldwide, Inc. v. First Quality Baby Prods*., LLC, No. 1:CV-09-1685, 2011 WL 2632352, at *2 (M.D. Pa. July 5, 2011) (construing "at least about" to mean "equal to or greater than approximately"). Accordingly, Tesla's argument fails.

But even to the extent that any of the words *are* terms of degree, the specification provides sufficient examples, described above, from which a POSITA would understand the claim with reasonable certainty. "Claim language employing terms of degree has long been found definite where it provided enough certainty to one of skill in the art when read in the context of the invention." *Interval Licensing*, 766 F.3d at 1370.

The Patent, as Tesla acknowledges, also provides figures for additional examples. D.I. 26 at 14-15. Taking Figure 3 out of context, Tesla complains that it "confuses." *Id*. at 14. That is merely because Tesla cuts off the specification's explanation and only addresses the word "assumed" out of context. *Id*. When read with the specifications' examples, the figure and example provide clear guidance. Figure 3 includes a cargo door (32) which, to the image sensor, may be

trapezoidal even though it is rectangular. D.I. 26-3 ('805 Patent) at 7:21-25. However, sufficient edge demarcation exists to at least partially describe the image as indeed the rectangular cargo door. The Patent also provides additional examples with respect to this figure, showing a "window" and a "loading platform end region." *Id*. at 7:22-55. To make the example even clearer, the Patent contrasts these examples to images 34a and 34b in Figure 3, which the specification explains to be "interference," as opposed to a potential destination. *Id*.at 7:33-37. Having both examples of the potential destination and examples of the opposite (*i.e.*, interference), sufficient boundaries are set for the claim to not be indefinite. *Niazi*, 30 F.4th at 1349.

Additionally, the Examiner understood the claim terms and even used several of the same words in allowing the claims and describing the invention:

> However, in the instant invention the extracting of the parameters further includes edge detection and segmentation on the image data along with performing an additional acceptance analysis so as to identify at least one accepted object, the additional acceptance analysis including analyzing a shape of the image formation of each object in the image data based on the knowledge of *at least* one imaging property of the imaging sensor relative to the surrounding field and storing *at least* one accepted object that corresponds to a most proximate destination together with corresponding relative positional data in an object list in combination with other limitations in claims 1 and 13, which is not taught by the prior art of record.

Ex. E (Oct. 29, 2007 Reasons for Allowance).

Tesla's position is further belied by its own statements in its IPR petition on this Patent. Ex. F (Tesla's IPR2025-00342 Petition) at 43-46. Indeed, Tesla had no trouble providing its own purported examples of at least partially describing a potential destination. *Id*. at 43 ("a geometrical form (the bottom corners of a preceding vehicle) that at least partially describes a potential destination of the vehicle (the location of the preceding vehicle)"); *id.* .at 44 (explaining the term as including "analyzing coarse level descriptions of edge segments for presence of a bottom corner of a preceding vehicle associated with a bottom corner of a model vehicle"). Tesla's expert also

had no trouble understanding the term in his declaration. Ex. G (Decl. of Jeffrey J. Rodriguez in Support of Tesla's IPR Petition in IPR2025-00342) at ¶¶ 110-113.

Accordingly, Tesla "has not carried its burden of persuading [the Court] that the '[805] Patent is invalid for indefiniteness" even though (according to Tesla) it contained a term of degree. *Seattle Box Co. v. Indus. Crating & Packing, Inc.*, 731 F.2d 818, 826 (Fed. Cir. 1984).

D. "potential geometric objects for plausibility using a matching algorithm so as to identify one or more plausible objects" ('805 Patent, claim 1)

IV's Proposal	Tesla's Proposal
Plain and ordinary meaning. Not indefinite.	Indefinite.

For the reasons discussed above, Tesla's indefiniteness arguments were waived for failure to raise them timely. *See supra* § VI.A (the Court should disregard Tesla's indefiniteness arguments for the same reasons set forth above with respect to the '639 Patent). Indeed, Tesla never identified this term in its invalidity contentions. Ex. B at 119-128 (Tesla's Oct. 24, 2024 Invalidity Contentions failing to identify this term whatsoever). To the extent that the Court does not find them waived, the term is not indefinite.

Like the previous term ("may at least partially describe a potential destination"), this term is not indefinite. *Supra* § VI.C. Indeed, the Patent provides numerous examples such that a POSITA would understand the term. Tesla's arguments boil down to the words "plausibility" and "plausible objects" being terms of degree. But that is not so. Indeed, similar terms were not a term of degree. *See, e.g.*, *Giesecke & Devrient GmbH v. United States*, 163 Fed. Cl. 430, 476-477 (2023) (finding "plausibility check" is governed by its "plain and ordinary meaning;" and means "assesses for apparent credibility").

Even if they are terms of degree (which they are not), they do not render the claim indefinite, particularly where the Patent provides examples. *Niazi*n, 30 F.4th at 1349; *Seattle*, 731

F.2d at 826; *Interval Licensing*, 766 F.3d at 1370. As explained above, the Patent provides examples of "plausibility" and "plausible objects." *Supra* § VI.C. These include for example, a "typical destination is a docking station for trucks at a warehouse" (D.I. 26-3 ('805 Patent) at 3:43-47); a "cargo door" (*id*. at 7:22-30); a "window" (*id*.). Figure 3 in the Patent also provides illustrations of these examples. *Id*. Fig. 3. To make the examples even clearer, the Patent contrasts these examples to non-plausible objects such as 34a and 34b in Figure 3 which the specification explains to be "interference." *Id*. at 7:33-37.

Tesla's position is further belied by its own statements in its IPR petition on this Patent. Ex. F (Tesla's IPR2025-00342 Petition) at 46-48. Tesla's expert also had no trouble understanding the term in his declaration. Ex. G (Decl. of Jeffrey J. Rodriguez in Support of Tesla's IPR Petition in IPR2025-00342) at ¶¶ 114-117.

Given the numerous examples, a POSITA would understand that the term, in context is sufficiently definite to provide an objective standard. Tesla's arguments, therefore, should be rejected. *Niazi*, 30 F.4th at 1349; *Seattle*, 731 F.2d at 826.

E. "said processing" ('395 Patent, claim 1)

IV's Proposal	Tesla's Proposal
Plain and ordinary meaning. Not indefinite.	Indefinite.

As with Tesla's other previously undisclosed theories, this one was waived and should be rejected for the same reasons discussed above with respect to "target feature information." *See supra* § VI.A (the Court should disregard Tesla's indefiniteness arguments for the same reasons set forth above with respect to the '639 Patent). Indeed, Tesla never identified any antecedent basis issues in its invalidity contentions. Ex. B at 119-128 (Tesla's Oct. 24, 2024 Invalidity Contentions

failing to identify antecedent basis). To the extent that the Court does not find it waived, the term is not indefinite.

Here, again, Tesla incorrectly argues that the claim is indefinite because the Term lacks antecedent basis. Tesla is wrong; the term has sufficient antecedent basis, and even if it is not explicit, that does not render the claim indefinite. *Graphon*., 2007 WL 1870622, at *11.

When read in the context of the claim, "said processing" simply refers back to the immediately preceding processing step, *i.e.*, "executing a third group of instructions that causes said cache line to be accessed, wherein said third group of instructions is executed by an agent other than said processor, wherein said processing…". D.I.26-4 ('395 Patent) at Claim 1. Indeed, when the claim is read as whole, the "execute[on]…" is a processing step that directly precedes the term. *Id*. Moreover, that "executi[on]" step specifically references using an "an agent other than said processor." *Id*. That agent is, for example, another processor or a DMA agent. *Id*. at Fig. 3; *id*. at 6:18-19. Accordingly, the agent can be performing "processing" which the claim term refers back to. *Id*. At bottom, the claim term simply adds to what happens in the execution step.

The reference back to the immediately preceding step is further made clear by the parallel structure in Claim 1 and similar parallel structure in Claim 7.

1. A method of managing memory in a computer system, said method comprising:

setting a first bit of an indicator associated with a cache line in a cache memory if said cache line has been accessed in response to a processor executing an instruction in a first group of instructions;

setting a second bit of said indicator while said first bit remains set if said cache line has also been accessed in response to said processor executing an instruction in a second group of instructions;

executing a third group of instructions that causes said cache line to be accessed, wherein said third group of instructions is executed by an agent other than said processor, wherein said processing comprises rolling back said first group of instructions provided said first bit is set and rolling back said second group of instructions provided said second bit is set before allowing an instruction in said third group to access said cache line, and otherwise granting said access; and

processing said first group and said second group of instructions according to a value of said indicator.

7. A computer system comprising:

a processor;

a cache memory for use by said processor; and

a memory unit coupled to said processor and having stored therein instructions, said instructions comprising:

instructions to execute a first group of instructions using said processor, wherein said first group of instructions includes an instruction that causes a cache line of said cache memory to be read;

instructions to set a first bit of an indicator associated with said cache line to indicate that said cache line has been read;

instructions to execute a second group of instructions using said processor, wherein said second group of instructions includes an instruction that causes said cache line to be read;

instructions to set a second bit of said indicator while said first bit remains set to indicate said cache line has been accessed by both said first group of instructions and said second group of instructions;

instructions to execute a third group of instructions that causes said cache line to be accessed, wherein said third group of instructions is for execution by an agent other than said processor, wherein said instructions further comprise instructions to roll back said first group of instructions provided said first bit is set and to roll back said second group of instructions provided said second bit is set before allowing an instruction in said third group to access said cache line, wherein otherwise said access is granted; and

instructions to process said first group and said second group of instructions according to a value of said indicator.

D.I. 26-4 ('395 Patent) at Claim 1, Claim 7 (showing parallel structure where reference is to the step directly preceding term).

IV's understanding is supported by Dr. David Kaeli, a POSITA[6]. As Dr. Kaeli explains, the claim term in context and in the context of the specification is referring directly back to the immediately preceding processing (or execution) step. Kaeli Decl. at ¶¶ 31-38.

Tesla attempts to raise a phantom ambiguity as to whether the agent is performing the "said processing" step of rolling back. However, the specification provides at least one example, where the external agent is responsible for the roll back described in the "said processing" step. *See, e.g.*, D.I. 26-4 ('395 Patent) at 5:48-56 ("In one embodiment, the observed bits are used in the following manner. Continuing with reference to FIGS. 1 and 2 if an external agent (e.g., another processor 11 or 12 or a DMA agent such as peripheral device 13) executes an instruction that causes access to (or a request for access to) cache line 21, for example, and any of the observed bits 24, 25, ..., N1 have been set, then the instruction groups associated with the observed bits that are set are forced to roll back and then reissue."); *see also* Kaeli Decl. at ¶¶ 31-38 (providing additional discussion and examples). There is no ambiguity when the claims are read in the context of the specification. *Id*.

The file history further supports this understanding. The amendment introducing the term came after an appeal where the Board explained that the purpose of error checking would still be accomplished using the same processor. Ex. H (July 29, 2011 Appeal Docketing Notice) at 4.[7] Allowing rollback using a separate agent provides, among other things, an additional effective

[6] Submitted herewith is the February 10, 2025 Declaration of Dr. David Kaeli ("Kaeli Decl.").
[7] Tesla, incorrectly, focusses on earlier amendments in the file history that are not directly relevant to the term. D.I. 26 at 22-24.

error check. A POSITA would understand as much and realize that the term "said processing" refers to the preceding step performed by the agent processor in order to effectuate such a purpose.

F. "broadcast information" ('416 Patent, claim 1)

IV's Proposal	Tesla's Proposal
Plain and ordinary meaning, which is information that is transmitted via a broadcast.	"information that is ***received*** via a broadcast transmission ***to all UEs within a base station's coverage area***"[8]

Tesla's construction is plainly wrong. A broadcast does not require that all UEs (user equipment) receive the broadcast information. Instead, a broadcast only requires the transmission of data, not the reception of it. This distinction is supported by the claim language itself. Indeed, the Claim discusses a "receiver configured to receive broadcast information." D.I. 26-5 ('416 Patent) at Claim 1. The transmission is the key step that defines broadcast information, and the onus is on the receiver to actively receive it, or not, depending on its configuration or state. *Id*.

Tesla's construction improperly reads a requirement into the claims that all UEs must receive the broadcast information. This is unsupported by the claim language or the specification. A broadcast occurs when information is transmitted to a broad group of UEs, but it does not require that each individual UE actually receives the information. For example, UEs within a base station's coverage area may receive broadcast information if they are tuned to the appropriate channel, but they are not obligated to receive the broadcast. A UE that is on a different channel or turned off may not receive the broadcast at all. This is consistent with the patent's description of broadcast occurring on a "Broadcast Channel (BCH)," which is only accessible to UEs that are tuned into the same channel. *See, e.g.*, D.I. 26-5 ('416 Patent) at 5:27-28.

[8] Tesla seemingly recasts its proposal as "plain meaning" even though it is not a plain meaning construction and inserts extraneous limitations into the claim. Ex. A (Tesla's original proposal not including the words "plain meaning").

Tesla's analogy to television or radio broadcasts fails because it overlooks the fact that UEs, like televisions or radios, may be turned off, tuned to a different channel, or otherwise fail to receive the broadcast. D.I. 26 at 25. This is exactly how broadcast information operates in wireless communication systems, where the transmission is intended for a broad audience but does not guarantee that every device in the coverage area will receive it. In other words, Tesla's analogy to TV or radio broadcasts is flawed because it fails to account for situations where a device, such as a television, is turned off or tuned to a different channel. If one television does not receive the broadcast due to being off or tuned to a different channel, this does not negate the fact that the broadcast was still transmitted. Tesla's analogy overlooks this key aspect of broadcast transmissions in wireless communications.

Moreover, UEs within a base station's coverage area that are tuned into the same channel may receive the broadcast information, but they can also choose to stop listening once they determine that the broadcasted message is irrelevant. Tesla itself acknowledged in its recently filed IPR petition that broadcast information is transmitted and not necessarily received by all UEs. Specifically, Tesla referred to the "PICH" channel as a broadcast channel for paging information (Ex. I, Tesla's IPR2025-00218 Petition, at 37), noting that while the information is transmitted, it does not imply that every UE actually receives it. In fact, Tesla described this transmission of paging information as occurring in the RRC Idle state through the paging indication channel (Id. at 36), without suggesting that all UEs must receive it. Tesla's assertion that the communication is not directed or addressed to a particular user further highlights the inconsistency in its position—if the communication is not addressed to all users, it cannot reasonably be argued that it must be received by all UEs.

Tesla's definition seemingly seeks to improperly import limitations into claim that require

an additional step of actual receipt. Tesla's inclusion of the additional limitations that the broadcast is "received" by "all UEs" is an improper attempt to import a limitation into the claims that should be rejected. *Kara Tech. Inc. v. Stamps.com Inc*., 582 F.3d 1341, 1348 (Fed. Cir. 2009) ("[W]e will not limit him to his preferred embodiment or import a limitation from the specification into the claims"); *Phillips v. AWH Corp*., 415 F.3d at 1319-1320 ("One of the cardinal sins of patent law [is] reading a limitation from the written description into the claims") (*quoting SciMed Life Sys., Inc. v. Advanced Cardiovascular Sys., Inc*., 242 F.3d 1337, 1340 (Fed. Cir. 2001); *Cont'l Cirs. LLC v. Intel Corp*., 915 F.3d 788, 799 (Fed. Cir. 2019) ("it was improper for the district court to read this process limitation into the product claims"); *Dayco Prods., Inc. v. Total Containment,* Inc., 258 F.3d 1317, 1327 (Fed. Cir. 2001) ("Our cases make clear, however, that adding limitations to claims not required by the claim terms themselves, or unambiguously required by the specification or prosecution history, is impermissible").

Tesla has pointed to no clear disclaimer of any claim scope. Absent such disclaimer, Tesla's imported limitations must be rejected. *Grantley Pat. Holdings, Ltd. v. Clear Channel Commc'ns, Inc*., 2008 WL 5428186, at *4 ("Absent any clear disclaimer of claim scope, the court would not import limitations from the specification into the claims.").

VII. CONCLUSION

For the foregoing reasons the Court should adopt IV's claim construction proposals.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

A true and correct copy of the foregoing instrument was served or delivered electronically via email to Tesla's counsel of record, on this 10th day of February 2025.

/s/ Jonathan K. Waldrop
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