

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

QUALCOMM INC.,
Petitioner

v.

BANDSPEED, INC.,
Patent Owner

IPR2015-00315¹
U.S. Patent No. 7,477,624

Title: Approach for Managing the Use of Communications Channels Based on
Performance

**DECLARATION OF DR. JOSE LUIS MELENDEZ IN SUPPORT OF
PATENT OWNER RESPONSE RELATED TO *INTER PARTES* REVIEW
OF U.S. PATENT NO. 7,477,624**

¹ IPR2015-01580 has been joined with IPR2015-00315

Bandspeed, Inc.
EXH. 2001
Patent Owner – Bandspeed, Inc.

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I. INTRODUCTION

1. My name is Dr. Jose Luis Melendez. I am an independent expert in the fields of imaging and wireless technologies, and I reside in Lakeway, Texas, a community in close proximity to the Texas capital city of Austin. I have been asked to and have conducted a review of US Patent 6,760,319 (“Gerten”), US Patent 6,418,317 (“Cuffaro”), US Patent 6,115,407 (“Gendel”), US Patent 7,280,580 (“Haartsen”), and US Patent 5,781,582 (“Sage”) to determine whether or not these documents are invalidating prior art to Patent Owner’s United States Patent No. 7,477,624 (“’624 Patent”). Additionally, I have reviewed the IPR2015-01580 petition submitted by Qualcomm Inc. (“Petitioner” or “Qualcomm”) along with its exhibits, including the report of Dr. Zhi Ding (“Ding Declaration”).² In this report, I will address only certain aspects of the petition, patent claims, and Ding Declaration that I believe will be of particular benefit to the Patent Trial and Appeal Board (“PTAB” or “Board”) in evaluating the petition, in light of the record and totality of stakeholder arguments, and in coming to its final decision regarding the ‘624 Patent in the context of the subject petition.

2. During the prosecution of the ‘624 Patent and prior to its acceptance and publication, 49 references were cited during prosecution as prior art relevant to

² I have also reviewed the IPR2015-00315 petition to which IPR2015-01580 has been joined and the accompanying exhibits to IPR2015-00315.

the allowed invention comprising a combination of patents, patent applications and other publications. Many of these references related to systems that generally serve to address interference in communications systems, including frequency hopping communications systems.

3. My declaration highlights certain aspects of how the '624 Patent invention differs from the references cited in the Petition in view of the arguments presented in the IPR2015-00315/01580 petition, the Ding Declaration, and in light of the '624 Patent itself. My declaration provides additional support for the arguments put forward in the Bandspeed Patent Owner Response to which it is appended.

4. This declaration and rebuttal is based on the information presently available to me. Should additional information become available, I reserve the right to supplement my opinion based upon information that may subsequently become available which may include a review of information that may be produced, or from testimony or depositions that are subsequently taken.

II. SUMMARY OF OPINIONS

5. Gerten fails to disclose the Claim 5 (as well as Claim 8 which depends on Claim 5) and Claim 20 limitations of the communications channel selector apparatus comprising “means for the first participant to communicate with a third

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