

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

**QUALCOMM INC.,
Petitioner**

v.

**BANDSPEED, INC.,
Patent Owner**

**Case IPR2015-00315¹
U.S. Patent 7,477,624 B2**

**PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE
UNDER 37 C.F.R. § 42.120**

¹ Case IPR2015-01580 has been joined with this proceeding.

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. CLAIM CONSTRUCTION	1
A. Level of Ordinary Skill	1
B. “Votes”	2
C. “Means for Communicating”	4
III. GROUND 1: GERTEN ANTICIPATES CLAIMS 5, 8, 17, AND 20	4
A. Gerten Discloses Communicating Using an Adapted Sequence While Communicating Using a Default Sequence in Claims 5 and 20	4
B. Gerten Anticipates Claims 8 and 17.....	9
IV. GROUND 2: GERTEN IN VIEW OF CUFFARO RENDERS CLAIMS 6, 7, 18, AND 19 OBVIOUS.....	9
A. The Combination of Gerten and Cuffaro Discloses or Suggests Transmitting Performance Data Over One or More Channels in Claims 6 and 18.....	9
B. The Combination of Gerten and Cuffaro Discloses or Suggests Selecting a Channel Based on a Specified Number of Votes in Claims 7 and 19	11
C. Gerten and Cuffaro Are Analogous Art, and a POSA Would Combine Their Conceptual Teachings.....	14
V. GROUND 3: GENDEL IN VIEW OF HAARTSEN RENDERS CLAIMS 5, 8, 17, AND 20 OBVIOUS.....	16
A. The Combination of Gendel and Haartsen Discloses Communicating Using an Adapted Sequence While Communicating Using a Default Sequence in Claims 5 and 20.....	16
B. The Combination of Gendel and Haartsen Discloses Selecting Based on Performance in Claims 5 and 17	18
C. The Combination of Gendel and Haartsen Renders Claims 8 Obvious	20

D. Gendel and Haartsen Are Analogous Art, and a POSA Would
Combine Their Conceptual Teachings20

VI. GROUND 4: GENDEL IN VIEW OF HAARTSEN AND SAGE
RENDERS CLAIMS 6 AND 18 OBVIOUS21

VII. THE INSTITUTED CLAIMS ARE INVALID22

TABLE OF AUTHORITIES

Page(s)

Cases

Bandspeed, Inc. v. Qualcomm Inc. et al.,
No. 1:14-cv-00436 (W.D. Tex. Mar. 14, 2016), ECF No. 103 (Ex.
1014 at 6)2

KSR Int’l Co. v. Teleflex Inc.,
550 U.S. 398 (2007).....21

Medtronic Inc. v. Boston Sci. Corp.,
695 F.3d 1266 (Fed. Cir. 2012)3

In re Mouttet,
686 F.3d 1322 (Fed. Cir. 2012)21

EXHIBIT LIST

Exhibit No.	Exhibit Description
<u>Petitioner Exhibits (Previously Filed)</u>	
1001	U.S. Patent No. 7,477,624 to Gan et al., issued January 13, 2009 (“The ’624 Patent”)
1002	Declaration of Dr. Zhi Ding in Support of Petition for <i>Inter Partes</i> Review of U.S. Patent No. 7,477,624, November 26, 2014 (“Ding Decl.”)
1003	U.S. Patent No. 6,760,319 to Gerten et al., issued July 6, 2004 (“Gerten”)
1004	U.S. Patent No. 6,418,317 to Cuffaro et al., issued July 9, 2002 (“Cuffaro”)
1005	U.S. Patent No. 6,115,407 to Gendel et al., issued September 5, 2000 (“Gendel”)
1006	U.S. Patent No. 7,280,580 to Haartsen, issued October 9, 2007 (“Haartsen”)
1007	U.S. Patent No. 5,781,582 to Sage et al., issued July 14, 1998 (“Sage”)
1008	Definition of “vote,” The American Heritage Dictionary, Second College Edition, Boston: Houghton Mifflin Company, 1985; p. 1356
1009	Definition of “while,” The American Heritage Dictionary, Second College Edition, Boston: Houghton Mifflin Company, 1985; p. 1376
1010	Definition of “Register,” Microsoft Press Computer Dictionary, 3 rd Edition, Redmond, WA: Microsoft, 1997; p. 402
1011	<i>Curriculum Vitae</i> of Zhi Ding, Ph.D.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.