

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

QUALCOMM INC.,
Petitioner

v.

BANDSPEED, INC.,
Patent Owner

Case IPR2015-00316¹
U.S. Patent 7,477,624 B2

**PETITIONER'S RESPONSE TO PATENT OWNER'S MOTION FOR
OBSERVATION RELATED TO DEPOSITION OF DR. ZHI DING**

¹ Case IPR2015-01581 has been joined with this proceeding.

I. INTRODUCTION

Pursuant to the PTAB Scheduling Order dated November 16, 2015, Petitioner Qualcomm Inc. (“Petitioner”) submits the following responses to Patent Owner Bandspeed, Inc. (“Patent Owner”) Motion for Observation Related to Deposition of Dr. Zhi Ding.

II. RESPONSES

A. Response to Observation No. 1

In Exhibit 2006, 84:17 – 85:10 Patent Owner indicates that a base station of Cuffaro is a “participant.” At 86:10-16, Dr. Ding indicates that the base station of Cuffaro provides an expression of preference. At 86:21 – 87:5 and 87:10-14, Dr. Ding indicates that under another interpretation “you can view the measurement of signal quality by the participa[nt] as a preference. And that itself can be viewed as a vote.” This testimony is relevant to Dr. Ding’s testimony of paragraphs 6-7 of his supplemental declaration and to the proper claim construction of “vote to use a particular communications channel.”

B. Response to Observation No. 2

In Exhibit 2006, 86:17 – 87:1 Dr. Ding testified that in Cuffaro the mobile station is sending a measurement to the base station, and the base station makes the expression of preference based on comparing the received measurements. This testimony is relevant to Dr. Ding’s testimony of paragraphs 6-7 of his supple-

mental declaration and to the proper claim construction of “vote to use a particular communications channel.”

C. Response to Observation No. 3

Patent Owner cites Ex. 2006 98:7-17 and states that “[w]hen asked if he agreed whether Gerten required two selection kernel components, Dr. Ding further testified, “I agree.” In Exhibit 2006 58:5-15 Dr. Ding stated “a single kernel may have multiple components . . . we could have a single kernel that has one component addressing the N channels and another component . . . to address the N minus M channels. I do not really see why . . . you are attempting to equate kernel with kernel component.” At 97:19 – 98:6 Dr. Ding noted that a kernel can be like a program that has two paths or different possibilities in handling transmissions depending on stated conditions. This testimony is relevant to paragraphs 8-13 of Dr. Ding’s supplemental declaration regarding the disclosure in Gerten of a “transceiver is configured to transmit to and receive from a third communications device over the default set of two or more communications channels while transmitting to and receiving from the second communications device over the first set of two or more communications channels.”

D. Response to Observation No. 4

In Exhibit 2006 at 101: 22 – 102:1 when discussing Figure 1 of Gerten, Dr. Ding noted that two piconets within a scatternet functioning under a Bluetooth

standard would utilize the same default channels, but their hopping sequences should differ. At 102:5-6, Dr. Ding further indicated that Gerten's patent was not on the Bluetooth standard, but was "an invention to improve upon the prior art Bluetooth." This testimony is relevant to Dr. Ding's assertions in paragraph 12 of his supplemental declaration regarding the ability of Gerten to permit a mobile unit to be configured to utilize adaptive frequency hopping in conjunction with Figure 1 of Gerten.

E. Response to Observation No. 5

In Exhibit 2006 113:20 – 114:6 Dr. Ding noted that the alleged deficiency described by Patent Owner in Cuffaro would also be present in the '624 patent because "you would still need to resolve that situation in the event that the number of channels you want to swap would result in fewer than 75 total frequencies for hopping because the FCC requires you need to have at least 75 channels in your hopping sequence." This testimony is relevant to paragraph 14 of Dr. Ding's supplemental declaration wherein he states that Cuffaro's disclosure renders obvious the limitation of the '624 patent requiring that a specified number of votes be received to select a channel for use.

F. Response to Observation No. 6

In Exhibit 2006 128:2-5 and 132:10-11, Dr. Ding notes that the captions and labels of Figure 1 of Gendel states that the segment substitution subsystem is not

implemented in box 136, which makes clear that this block provides for legacy functionality. At 132:18 – 133:1 Dr. Ding further notes that “a person of ordinary skill in the art in this field are well trained to read block diagrams . . . unless there is something that is either ambiguous or unclear, it is the discretion or decision of the writer to decide whether they need further explanation or whether they feel that it may be insulting to the readers by saying too much of something that’s already obvious.” This testimony is relevant to paragraphs 19-20 of Dr. Ding’s supplemental declaration noting that it would have been recognized that the primary purpose of Block 126 of Gendel is to support of legacy communications systems.

G. Response to Observation Nos. 7-8

In Exhibit 2006 136:14 – 137:19 and 137:20 – 138:12, Dr. Ding was asked if he addressed specific arguments in his *supplemental* declaration. Dr. Ding confirmed that there was no *supplemental* testimony directed toward the teachings in Cuffaro regarding “performance data over one of the channels” and the teachings of Gendel in view of Haartsen regarding “selecting, based upon performance of the plurality of communications channels at a second time that is later than the first time, a second set of two or more communications channels from the plurality of communications channels.”

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