UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SPRINT SPECTRUM L.P., CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS, AND AT&T MOBILITY LLC,

Petitioners

V.

ADAPTIX, INC.,

Patent Owner

U.S. Patent No.: 8,934,375

Issue Date: January 13, 2015

OFDMA WITH ADAPTIVE SUBCARRIER-CLUSTER
CONFIGURATION AND SELECTIVE LOADING

Case IPR2016-00823

ADAPTIX, INC.

PATENT OWNER'S PRELIMINARY RESPONSE



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TABLE OF AUTHORITIES

Cases

| Aristocrat Techs. Austl. PTY Ltd. v. Int'l Game Tech., 709 F.3d 1348 (Fed. | Cir. |
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| 2013) | 25 |
| Cuozzo Speed Technologies, LLC v. Lee, 579 U.S (2016) | 9 |
| <i>In re Ratti</i> , 270 F.2d 810 (CCPA 1959) | 11, 13 |
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| Merck & Co. v. Teva Pharms. USA, Inc., 395 F.3d 1364 (Fed. Cir. 2005) | 25 |
| Phillips v. AWH Corp., 415 F.3d 1303 (Fed. Cir. 2005) | 24, 25 |
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| Other Authorities | |
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LIST OF EXHIBITS

| Exhibit No. | Exhibit |
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| 2001 | Expert report of Thomas Fuja, Ph.D. regarding |
| | invalidity of U.S. Patent Nos. 6,947,748 and 7,454,212, |
| | July 7, 2014. |
| 2002 | Patent Trial and Appeal Board Decision Denying |
| | Institution of <i>Inter Partes</i> Review of U.S. Patent No. |
| | 7,454,212, June 10, 2015. |



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