

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.,

Petitioner

v.

QUALCOMM INCORPORATED,

Patent Owner

Case IPR2018-01282

U.S. Patent No. 8,768,865

**QUALCOMM INCORPORATED'S
PATENT OWNER PRELIMINARY RESPONSE**

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	OVERVIEW OF U.S. PATENT NO. 8,768,865	3
	A. Structured Approach Reduces Demands on Mobile Devices	3
	1. Terminology	4
	2. Two-Phase Approach	6
	3. “Fixing” to Enable Recognizing or Matching a “Second Pattern”	7
	B. The ’865 Patent Claims	10
	C. Prosecution History	11
III.	OVERVIEW OF THE CITED ART	13
IV.	CLAIM CONSTRUCTION	16
	A. “Fixing . . .”	16
	B. Other Terms	22
V.	THERE IS NO REASONABLE LIKELIHOOD THAT PETITIONER WILL PREVAIL ON ANY OF THE CHALLENGED CLAIMS	22
	A. Petitioner Does Not Show That Louch Discloses “Fixing . . .”	22
VI.	THE PETITION SHOULD BE DENIED PURSUANT TO 35 U.S.C. § 325(D)	25
	A. The Prior Art, Arguments, and Challenged Claims are Substantially the Same between the 1281 and 1282 Petition	26
	B. Petitioner Failed to Demonstrate the 1281 Petition is Non- Redundant	29
VII.	CONCLUSION	31

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Apple Inc. v. Uniloc Luxembourg S.A.</i> , IPR2017–00222, slip. op. (PTAB May 23, 2018) (Paper 29)	17
<i>Avid Tech., Inc. v. Harmonic, Inc.</i> , 812 F.3d 1040 (Fed. Cir. 2016)	21
<i>Biogen Idec, Inc. v. GlaxoSmithKline LLC</i> , 713 F.3d 1090 (Fed. Cir. 2013)	21
<i>Cordis Corp. v. Medtronic AVE, Inc.</i> , 339 F.3d 1352 (Fed. Cir. 2003)	21
<i>EMC Corporation v. Personal Web Technologies LLC</i> , IPR2013-00085, slip op. (PTAB June 5, 2013) (Paper 28).....	29
<i>Google LLC v. Uniloc Lux. S.A.</i> , IPR2017-02081, slip op. (PTAB Mar. 29, 2018) (Paper 10)	27
<i>Great West Casualty Co. v. Intellectual Ventures II LLC</i> , IPR2016-01534, slip op. (PTAB Feb. 15, 2017) (Paper 13)	3
<i>LG Elecs, Inc. v. ATI Techs, ULC</i> , IPR2015-00327, slip op. (PTAB Sept. 2, 2015) (Paper 15).....	28
<i>Liberty Mutual Ins. Co. v. Progressive Casualty Ins. Co.</i> , CBM2012-00003 (PTAB Oct. 25, 2012) (Paper 7).....	30
<i>Merck & Co. v. Teva Pharm. USA, Inc.</i> , 395 F.3d 1364 (Fed. Cir. 2005)	17
<i>Power Mosfet Techs., L.L.C. v. Siemens AG</i> , 378 F.3d 1396 (Fed. Cir. 2004)	17
<i>Samsung Elecs. Co., Ltd. v. Rembrandt Wireless Techs., LP</i> , IPR2015-00555, slip op. (PTAB June 19, 2015).....	30

Cases

Samsung Elecs. Co., Ltd. v. Rembrandt Wireless Techs., LP,
IPR2015-00555, slip op. (PTAB June 19, 2015) (Paper 20).....27

Sketchers USA, Inc., v. Adidas, AG.,
IPR2017-00322, slip op. (PTAB May 30, 2017) (Paper 9).....25

Toyota Motor Company v. Adaptive Headlamp Technologies, Inc.,
IPR2016-01740, slip op. (PTAB March 10, 2017) (Paper 7).....25, 27

Toyota Motor Corp. v. Cellport Sys., Inc.,
IPR2015-01422, slip op. (PTAB Dec. 16, 2015) (Paper 8).....30

Rules and Statutes

35 U.S.C. § 314(a)3

35 U.S.C. § 325(d)2, 25, 27, 28, 30

Other Authorities

37 C.F.R. § 42.1071

Pursuant to 37 C.F.R. § 42.107, Patent Owner Qualcomm Incorporated submits this Preliminary Response to Apple, Inc.’s Petition for Inter Partes Review (“IPR”) of U.S. Patent 8,768,865 (the “’865 Patent”) (Paper 1).

I. INTRODUCTION

Petitioner fails to address all elements of the Challenged Claims. Specifically, Petitioner fails to allege that any cited art discloses “*fix[ing] a subset of varying parameters associated with said first pattern,*” which appears in each of the independent Challenged Claims.¹ Petitioner avoids addressing this limitation by removing it from the claims under the guise of claim construction.

Petitioner’s proposed construction does not interpret the claim language. Rather, it leaves the plain language unchanged—other than deleting a limitation that Petitioner cannot show is in the prior art—as is apparent from comparing in redline the proposed “construction” to the actual claim language:

~~fixing a subset of varying parameters associated with said first pattern by~~ associating at least one parameter of a said subset of varying parameters with said first pattern to represent said at least one detected condition

¹ Petitioner challenges Claims 1-10, 12-30, and 46-53, each of which is or depends from one of Claims 1, 21, or 46.

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.