

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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**Intel Corporation**  
Petitioner

v.

**Qualcomm Incorporated**  
Patent Owner

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Case IPR2019-00047  
Patent 9,154,356

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**PATENT OWNER'S SUR-REPLY**

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## **I. Introduction**

Patent Owner's response identified two fatal defects in Petitioner's challenge to the '356 Patent. Petitioner's reply fails to refute these points.

First, the petition is based on a flawed construction of the term "carrier aggregation." Patent Owner established that the term has an established and well understood meaning to skilled artisans. That meaning, which is set forth as Patent Owner's proposed construction, is supported by both intrinsic and extrinsic evidence.

But Petitioner argues that the patentee acted as a lexicographer to assign the term a special definition different than its plain and ordinary meaning. The petition fails, however, to establish that the patentee expressed the necessary intent to redefine the term.

Furthermore, Petitioner's proposed construction cannot be correct because: (1) the proposed construction violates the doctrine of prosecution disclaimer, and (2) the proposed construction reads out the term "aggregation." Petitioner's reply is unsuccessful in rebutting either point.

Properly construed, Uehara fails to disclose the "carrier aggregation" limitation. In addition, Petitioner fails to sufficiently articulate a motivation to select and combine the Feasibility Study (as a means of supplying the missing "carrier aggregation" limitation) with Uehara. No reasoned explanation is offered to explain why a skilled artisan would have been motivated to select and combine these two

references. Absent such an explanation, Petitioner’s alleged obviousness combination amounts to impermissible hindsight reconstruction of the claimed invention. Accordingly, Petitioner also fails to establish unpatentability for each ground with respect to the “carrier aggregation” limitation.

Second, Uehara fails to disclose two amplifier stages that are “independently enabled or disabled” as recited by the claims. Petitioner does not identify any other reference for use in a combination to overcome Uehara’s failure to disclose this limitation. This deficiency is dispositive of each ground in this IPR.

## **II. Patent Owner’s Proposed Claim Construction Is Correct.**

### **A. Petitioner Fails To Establish That The Patentee Acted As A Lexicographer.**

Petitioner does not propose construing the term “carrier aggregation” according to its plain and ordinary meaning. Instead, Petitioner and its expert argue that the patentee acted as a lexicographer to assign the term a special definition different than its plain and ordinary meaning. Reply 1 (“defines the term”); *id.* 3 (“the ’356 patent expressly defines”); *id.* 4 (“the clear definition”); Ex. 2029, 128:15–21 (concluding the specification’s disclosure in column 1 at lines 32–33 “is their definition of carrier aggregation acting as their own lexicographer”).

To maintain that flawed argument, Petitioner brushes aside all evidence, both intrinsic and extrinsic, Reply 4–8, that establishes the disputed term’s “ordinary and

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