

DOCKET NO.: 0107131-00573US1

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTEL CORPORATION
Petitioner

v.

QUALCOMM INCORPORATED
Patent Owner

Case IPR2019-00047
U.S. Patent No. 9,154,356

PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE

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I. INTRODUCTION

In response to the clear evidence that the prior art renders each of the challenged claims obvious, Patent Owner adopts a bird-shot approach in its Patent Owner Response, variously arguing that the Board should adopt narrowing claim constructions, selectively read the prior art references, and apply the prior art in ways that would exclude disclosed embodiments. None of Patent Owner's arguments has merit.

II. PATENT OWNER'S PROPOSED CLAIM CONSTRUCTION OF "CARRIER AGGREGATION" (POR 11-31) IS INCORRECT AND OVERLY NARROW

Patent Owner's first argument is that "carrier aggregation" should be construed to require "[1] simultaneous operation on multiple carriers [2] that are combined as a single virtual channel [3] to provide higher bandwidth." The Board should reject Patent Owner's proposed construction.

A. "Carrier Aggregation" Should be Construed in Accordance With its Broadest Reasonable Interpretation

As set forth in the Petition, "carrier aggregation" should be construed as "simultaneous operation on multiple carriers." This construction comes directly from the specification, which defines the term. *See* Ex. 1001, 1:32-33 ("A wireless device may support *carrier aggregation, which is simultaneous operation on*

multiple carriers.”),¹ 2:53-54, 2:54-55 (“Carrier aggregation may also be referred to as multi-carrier operation.”). See Ex. 1002, ¶61. Given the clear guidance in the specification, “carrier aggregation” should be construed as “simultaneous operation on multiple carriers” under the broadest reasonable interpretation (“BRI”) claim construction standard. See *Apple Inc. v. Immersion Corp.*, IPR2016-01372, 2017 WL 376909, at *2-3 (P.T.A.B. Jan. 11, 2017); see also *In re Imes*, 778 F.3d 1250, 1252-53 (Fed. Cir. 2015). This meaning is consistent with the understanding of the term by a POSITA. Ex. 1002, ¶62. Paper 3, Petition (“Pet.”), 31. Ex. 1039, ¶14.

Indeed, in the ITC 1093 Investigation, the Administrative Law Judge (“ALJ”) construed “carrier aggregation” as Petitioner proposes here—“simultaneous operation on multiple carriers”—despite Patent Owner’s similar arguments. Ex. 1036 (Inv. No. 337-ITA-1093, Order No. 38), 17; see also *id.*, App’x A at 30. The ITC ALJ made this construction under the *Phillips* standard. Ex. 1036, 12. Petitioner submits that the BRI construction must be at least as broad as a proper *Phillips* construction. *Rembrandt Wireless Techs., L.P. v. Samsung Elecs. Co.*, 853 F.3d 1370, 1377 (Fed. Cir. 2017). See DOI, 11; see also Pet., 30.

¹ Emphasis in quotations and annotations to figures added unless stated otherwise.

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