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Filed on behalf of Intel Corporation

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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

DECLARATION OF PATRICK MERIAS
U.S. PATENT NO. 9,154,356
CLAIMS 2-8 AND 11

I. EXPERIENCE AND QUALIFICATIONS

1. My name is Patrick Merias. I have approximately 10 years of experience working with standards development organizations including the Third Generation Partnership project (“3GPP”) and the European Telecommunication Standards Institute (“ETSI”).

2. Since 2006, I have worked for ETSI as a member of the support team to provide Mobile Competence Center support for the TSG RAN WG1 group, which is in charge of designing the specification of the physical layer of the radio Interface for UE, UTRAN, Evolved UTRAN, and beyond, covering both FDD and TDD modes of the radio interface.

3. I graduated from the Ecole Nationale Supérieure d'Electronique et de Radioélectricité de Bordeaux in 1986 with an Engineering degree in Electronics – Telecommunications. Prior to working for ETSI, I also worked as an engineer for Philips Communication Systems in the Netherlands, TRT in France, Lucent Technologies and Bell Labs in the United States.

4. A copy of my latest curriculum vitae (C.V.) is attached as Appendix A.

II. STATUS AS INDEPENDENT WITNESS

5. I have been asked by Intel Corporation (“Petitioner”) to provide testimony regarding 3GPP’s standard business practices for record keeping and publishing technical proposals and other documents developed during the course of 3GPP’s and ETSI’s telecommunications standards activities. I have also been asked by Petitioner to provide testimony regarding my role in publishing 3GPP Technical Report 36.912 V9.1.0, Technical Specification Group Radio Access Network, Feasibility study for Further Advancements for E-UTRA (LTE-Advances) (Release 9) (EX1204 / Appendix B).

6. As a member of the ETSI Support Team since 2006, I have personal knowledge of 3GPP's standard business and records keeping practices during that period. Based on my personal knowledge and my review of 3GPP's business records, I am able to testify regarding the authenticity of certain documents published by 3GPP and the timing of their publication.

7. I am not being compensated for my time and I have no financial interest in Petitioner.

8. I have been informed that Qualcomm Incorporated (hereinafter referred to as "Patent Owner") owns the U.S. Patent No. 9,154,356 ("356 patent"). I have no financial interest in the Petitioner, the Patent Owner, or the '356 patent; nor to my recollection have I ever had any contact with the Patent Owner.

III. PUBLICATION OF 3GPP SPECIFICATIONS AND RELATED DOCUMENTS

A. General Practices

9. 3GPP is in the business of developing cellular telecommunications standards.

10. In the ordinary course of its regularly conducted business activities, and pursuant to its standard business practices, 3GPP publishes technical specifications, proposals, reports, and other documents related to the development of cellular telecommunications standards. Such documents are published for the purposes of discussion and establishment of industry standards for cellular telecommunications.

11. In the ordinary course of 3GPP's regularly conducted business activities, and pursuant to its standard business practices, all technical specifications, proposals, reports, and other documents to be discussed or considered in relation to 3GPP's telecommunications standards activities are assigned a document number and made publicly available. Such documents are referred to as "TDocs." Proposals and notes submitted for discussion in the TSG RAN WG1 group

are made publicly available and assigned a TDoc starting with “R1”. Meanwhile, approved versions of specifications and reports are made publicly available and assigned a filename corresponding to their specification or report number.

12. In the ordinary course of 3GPP’s regularly conducted business activities, and pursuant to its standard business practices, at least as early as March 2009, 3GPP published all of R1 available documents and approved specifications and reports on its ftp server, ftp.3gpp.org.

13. At least as early as March 2009, 3GPP’s ftp server was freely accessible to the general public with no login, password, or membership requirement.

14. By March 2009, Broadcom, Qualcomm, Samsung, Nokia, Panasonic, AT&T, NEC, and other companies were members of 3GPP. Each of these companies typically delegated multiple individuals to regularly participate in 3GPP meetings. Further, pursuant to 3GPP’s standard business practices, 3GPP working groups sent emails notifying these individuals when available new or additional documents had been uploaded to 3GPP’s ftp server.

15. In addition to its temporary document number, it is 3GPP’s standard business practice to list on the face of each TDoc, the date, location, and meeting number of the meeting where the document is to be discussed. This information is recorded on the first page of the document by one of the document’s authors or editors at or near the time the document is created or presented to 3GPP.

16. In the ordinary course of 3GPP’s regularly conducted business activities, and pursuant to its standard business practices, TDocs are uploaded to 3GPP’s ftp server and website before the meeting where they are to be discussed. The only exception is for documents created during the course of a meeting. In which case, the document is normally uploaded during the

meeting week or the week following the meeting (e.g., the meeting report of the meeting is published for review during the week following the meeting).

17. In the ordinary course of 3GPP's regularly conducted business activities, and pursuant to its standard business practices, working groups first agree on proposed changes to technical specifications, proposals, reports, and other documents related to the development of cellular telecommunications standards before the changes to the relevant document are presented in a plenary meeting for approval. Upon approval of the proposed changes at the plenary meeting, the content of the relevant document is then updated (e.g., implemented into the specification, report, or other) and a change history table at the end of the relevant document is updated to reflect the changes and updated document version, and the updated document is uploaded to 3GPP's ftp server and website within several weeks of the plenary meeting.

18. In the ordinary course of 3GPP's regularly conducted business activities, and pursuant to its standard business practices, 3GPP maintains archives of email communications to its membership, including emails announcing the uploading of available new or additional documents to 3GPP's ftp server. These archives are created at the time the emails are initially sent.

B. Specific Documents

19. To the best of my knowledge and my review of 3GPP's business records, during the RAN plenary meeting in Sanya China, from December 1-4, 2009 ("RAN plenary meeting"), the RAN WG1 representative presented Agenda Item: 12.3.2 comprising three Change Requests for Technical Report 36.912 V9.0.0 ("TR 36.912 V9.0.0"). Changes to TR 36.912 V9.0.0 were approved at the RAN plenary meeting on December 4, 2009, and version 9.1.0 of TR 36.912 was created. Based on my personal knowledge and my review of 3GPP's business records, I recognize EX1204 as a copy of TR 36.912 V9.1.0, titled "3GPP Technical Report 36.912 V9.1.0, Technical

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