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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

Case IPR2019-00128
U.S. Patent No. 9,154,356

PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE

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I.   INTRODUCTION

The primary argument Patent Owner raises is one of claim construction, and specifically, what the proper construction of the term "carrier aggregation" is. The text of the '356 patent provides the answer, stating that carrier aggregation "is simultaneous operation on multiple carriers." Ex. 1301, 1:32-33; *see id.*, 2:53-54. The patent's written description is expansive in its description of technologies to which the alleged invention applies, and it describes LTE carriers as just one example. *Id.*, 2:38-67. Especially under the broadest reasonable interpretation standard that applies to claim construction in this trial, "carrier aggregation" is properly understood as meaning exactly what the patent says it means: "simultaneous operation on multiple carriers." Under that claim construction, Patent Owner raises no argument against anticipation by the Lee reference for at least some claims of the '356 patent. *See* POR, 32-34.

Seeking to avoid that outcome of unpatentability, Patent Owner proposes an odd – and narrow – tripartite claim construction of "carrier aggregation." Specifically, Patent Owner argues that "carrier aggregation" requires "[1] simultaneous operation on multiple carriers [2] that are combined as a single virtual channel [3] to provide higher bandwidth.'" Parts [2] and [3] of that construction come from outside the '356 patent, and they are not supported by the intrinsic evidence at all, let alone the broadest reasonable interpretation in light of that

evidence. The Board should reject this post-hoc attempt to rewrite the '356 patent and its claims.

But even if the Board were to adopt Patent Owner's proposed construction, the challenged claims are still invalid as obvious in view of Lee (Ex. 1335) and the Feasibility Study (Ex. 1304), which Patent Owner does not dispute discloses "[1] simultaneous operation on multiple carriers [2] that are combined as a single virtual channel [3] to provide higher bandwidth." Patent Owner fails to rebut Petitioner's evidence regarding why a person of ordinary skill in the art ("POSITA") would have been motivated to combine the teachings of Lee with Feasibility Study. Instead of finding fault with the motivations to combine identified by Petitioner, Patent Owner criticizes aspects of the prior art references not relied on by Petitioner. Patent Owner's attack on positions never advanced by Petitioner fails to rebut Petitioner's expressly stated reasons to combine, which largely come from the text of the references themselves.

II. PATENT OWNER'S PROPOSED CLAIM CONSTRUCTION IS INCORRECT AND OVERLY NARROW

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. 1301, 1:32-33 ("A wireless

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