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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 IPR2019-00129
U.S. Patent No. 9,154,356

**DECLARATION OF PATRICK FAY, PH. D. IN SUPPORT OF
PETITIONER'S REPLY**

INTEL 1439

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I, Patrick Fay, declare as follows:

I. INTRODUCTION

1. I have been retained by Intel Corporation ("Intel" or "Petitioner") as an independent expert consultant in this proceeding before the United States Patent and Trademark Office. I previously prepared and submitted a Declaration in support of the Petition in this proceeding, dated November 9, 2018 (Ex. 1402).

2. Since preparing my Declaration, I have reviewed Qualcomm's Patent Owner's Preliminary Response ("POPR"), the Board's Decision on Institution ("DOI"), Patent Owner's Response ("POR"), Dr. Foty's declaration submitted in support of the POR (Ex. 2024), and the transcript of Dr. Foty's deposition on November 8, 2019 (Ex. 1440). I have been asked to review and respond to Dr. Foty's opinions, including those reflected in the POR, as well as the Board's Decision on Institution.

3. I am being compensated for my work on this matter, but my opinions are based on my own views of the patented technology and the prior art. My compensation in no way depends on the outcome of this proceeding or the content of my testimony.

4. In preparing this Declaration, I reviewed and considered the specification, claims, and file history of U.S. Patent No. 9,154,356 ("'356 patent") (Ex. 1401). I have been informed the '356 patent has a priority date of August 21,

2012. I have also reviewed and considered the documents cited by Dr. Foty in his declaration (Ex. 2024). Additionally, I have reviewed the related Reply, which I understand Intel will file at the United States Patent and Trademark Office (USPTO) at the same time as this Declaration is filed at the USPTO.

5.   I have also reviewed all of the documents I cite in this declaration.

II.   QUALIFICATIONS

6.   I describe my qualifications in my first Declaration. Ex. 1402, ¶¶2-9.

III.   RELEVANT LAW

7.   In my first Declaration, I set forth the applicable principles of patent law that were provided to me by counsel. Ex. 1402, ¶¶15-30. As appropriate, I have continued to apply those principles in providing my opinions in this Declaration. In addition, I understand that the following legal principles apply, as explained to me by Intel's legal counsel.

8.   I am not an attorney. For the purposes of this declaration, I have been informed about certain aspects of the law that are relevant to my opinions. My understanding of the law is as follows.

9.   I have been informed and understand that the Petitioner in an *inter partes* review Petition may request cancellation of claims as unpatentable only on grounds that such claims are anticipated or would have been obvious to a person of ordinary skill in the art at the time of the purported invention, and only on the basis

of prior art consisting of patents or printed publications. A petitioner need only establish unpatentability of challenged claims by a preponderance of the evidence—i.e., that the claims are more likely than not unpatentable. My opinions in this matter address the invalidity of the challenged claims as anticipated and obvious.

10. I have been informed and understand that an applicant for a patent can disclaim or disavow claim scope via statements made during prosecution without an express amendment, but only if such statements of disavowal or disclaimer are clear, unmistakable, unambiguous, and unequivocal.

11. I have been informed and understand that a prior art reference is considered analogous art to the challenged patent for purposes of determining obviousness if it is from the same field of endeavor, regardless of the problem addressed, or if the reference is reasonably pertinent to the particular problem with which the inventor of the challenged patent was involved.

IV. LEVEL OF ORDINARY SKILL IN THE ART

12. As stated in my original declaration (Ex. 1402), a person of ordinary skill in the art ("POSITA") at the time of the alleged invention would have had at least an M.S. degree in electrical engineering (or equivalent experience) and would have had at least two years of experience with the structure and operation of RF transceivers and related structures (or the equivalent).

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