

EXHIBIT 14

Trials@uspto.gov
Tel: 571-272-7822

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

QUALCOMM INC.,
Petitioner,

v.

BANDSPEED, INC.,
Patent Owner.

Case IPR2015-00531¹
Patent 8,542,643 B2

Before BART A. GERSTENBLITH, DAVID C. MCKONE, and
PATRICK M. BOUCHER, *Administrative Patent Judges*.

MCKONE, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

¹ Case IPR2015-01582 has been joined with this proceeding.

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concluded that it means “an area of memory having a set of addressable slots.” Both parties then agreed to this construction. We find that it also corresponds to the broadest reasonable interpretation of the term. For example, the Specification does not define “register,” but more broadly describes registers as memories addressed by a selection kernel. Ex. 1001, 20:3–14. To the extent that Petitioner’s dictionary definition is more narrow, the parties have not explained persuasively why such extrinsic evidence should be used to restrict the otherwise broad meaning ascribed by the claim language itself and the Specification. We decline Patent Owner’s request that we undo the parties’ district court agreement. Accordingly, we adopt the parties’ agreed construction from the *Qualcomm* Litigation.

3. “*selection kernel*”

Claims 1, 6, and 11 each recite a “selection kernel” that “addresses a bad channel stored in a particular location of the default channel register” and replaces “the bad channel stored in the particular location of the default channel register with a good channel selected from the set of good channels loaded in the good channel register.”

Neither party proposes a construction of “selection kernel.” Nevertheless, it is a technical term that requires construction in order for us to apply the prior art to the claims and resolve the parties’ dispute over the presence of a selection kernel in the prior art.

The Specification does not define “selection kernel.” Nevertheless, it describes a selection kernel (box 510), in connection with Figures 5A and

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5B, as a module of software that performs the addressing of the default channel and good channel registers. Ex. 1001, 20:1–21:4.

Consistent with this description, a technical dictionary defines a “kernel” as “[a] software module that encapsulates an elementary function or functions of a system.” IEEE 100, THE AUTHORITATIVE DICTIONARY OF IEEE STANDARDS TERMS 599 (7th ed. 2000) (Ex. 3001). The parties’ applications of the term are consistent as well. *See* Ex. 1002 (Ding Decl.) ¶ 39 (“As would be understood by one of ordinary skill in the art, a selection kernel **selects** channels to use for transmission of data. The selection kernel outputs an address to address a register and may address the same bad channel multiple times.”); PO Resp. 9 (“The ’643 Patent utilizes a selection kernel 510 that addresses the default channel register 520 and replaces bad channels contained therein with good channels from the good channel register 550.”), 23 (same).

In light of the use of the term in the claims and Specification, we construe “selection kernel” to mean “a software module that encapsulates a register addressing function.”

4. “good channel usage timeout”

Claims 4 and 14 recite “removing a particular good channel from the good channel register, based at least in part on a good channel usage timeout value.” Claim 9 includes a similar recitation. The ’643 patent Specification describes a “good channel usage timeout” value as follows:

According to another embodiment of the invention, implementation of a selected set of communications channels

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IV. ORDER

For the reasons given, it is

ORDERED, based on a preponderance of the evidence, that claims 1–4, 6–9, and 11–14 of U.S. Patent No. 8,542,643 B2 are held unpatentable;

FURTHER ORDERED that claims 5, 10, and 15 of U.S. Patent No. 8,542,643 B2 are not held unpatentable; and

FURTHER ORDERED, because this is a final written decision, the parties to this proceeding seeking judicial review of our Decision must comply with the notice and service requirements of 37 C.F.R. § 90.2.

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