

EXHIBIT 4-2

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

PARKERVISION, INC.,

Plaintiff,

v.

Case No: 6:14-cv-687-Orl-40LRH

QUALCOMM INCORPORATED,
QUALCOMM ATHEROS, INC., HTC
CORPORATION and HTC AMERICA,
INC.,

Defendants.

ORDER

This cause comes before the Court on the following:

1. Plaintiff's Motion for Claim Construction (Doc. 148), filed June 15, 2015;
2. Defendant's Claim Construction Brief (Doc. 171), filed July 15, 2015;
3. Plaintiff's Additional Claim Construction Brief (Doc. 317), filed September 27, 2019; and
4. Defendant's Responsive Claim Construction Brief (Doc. 324), filed October 11, 2019.

The Court held *Markman* hearings on August 12, 2015 (Doc. 198), and November 12, 2019 (Doc. 333).¹

¹ See generally *Markman v. Westview Instruments, Inc.*, 517 U.S. 370 (1996).

Contents

I.	BACKGROUND	3
II.	LEGAL STANDARDS FOR CLAIM CONSTRUCTION	5
III.	AGREED TERMS.....	8
IV.	DISPUTED TERMS.....	10
A.	matched filtering/correlating module	10
1.	The First Markman Hearing	11
2.	The Second Markman Hearing	12
3.	The ‘177 Patent.....	16
4.	The Prosecution History.....	18
5.	The Structural Details	20
B.	switch/switch module	24
1.	Broadest Reasonable Interpretation compared with Phillips Standard	26
2.	Construction of Switch/Switch Module: First Markman Hearing.....	29
3.	Second Markman Hearing	30
C.	to gate/gating	32
1.	“to gate/gating”	34
2.	“gating means”	38
D.	“summer”	40
1.	Second Markman Hearing	42
2.	Construction of Summer	44
E.	“summing means”	45
F.	“bias signal”	46
1.	The Board’s Construction	47
2.	Construction of Bias Signal	49
G.	“desired harmonics” and “desired signal”	51
H.	“said input signal”	53
V.	CONCLUSION	58

I. BACKGROUND

This litigation has a complex history, beginning with Plaintiff ParkerVision, Inc.'s ("ParkerVision"), Complaint alleging the infringement of seven patents. (Doc. 1). In the First Amended Complaint, ParkerVision added four patents. (Doc. 26).² As is customary, the parties provided the Court with a technology tutorial (Doc. 157), and the Court held the initial claim construction hearing (Doc. 198). Following the claim construction hearing, the parties filed a Joint Motion to Dismiss Certain Claims and Covenant not to Sue (Doc. 228), which the Court granted (Doc. 246). The Motion to Dismiss informed the Court that certain terms discussed at the claim construction hearing no longer required interpretation by the Court. (Doc. 228). As the case progressed, the parties stipulated to the dismissal of the Samsung Defendants (Doc. 255), and the Court granted the dismissal (Doc. 256). The litigation was ultimately stayed pending Inter Partes Review ("IPR"). (Docs. 255, 256).

ParkerVision appealed three final written decisions of the U.S. Patent Trial and Appeal Board in which the Board held certain claims of the '940 patent unpatentable. *ParkerVision, Inc. v. Qualcomm, Inc.*, 903 F.3d 1354, 1357 (Fed. Cir. 2018). Qualcomm had challenged the apparatus and method claims of the '940 patent as obvious. *Id.* at 1358. The Board agreed that the apparatus claims would have been obvious. *Id.* at 1359. The Federal Circuit affirmed the Board's finding that claims 4, 21, 22, 23, 100, 113–16, 118, 119, 281, 283–86, 288, 289, 293, 309–12, 314–15, and 319 are unpatentable. *Id.* at 1362. The Federal Circuit also affirmed the Board's determination that claims 1, 2, 18,

² ParkerVision has elected to proceed with the '940, '372, '907, and '177 patents, which were disclosed in the First Amended Complaint and Plaintiff's Claim Construction Brief. (Doc. 284, pp. 2–3; Docs. 124, 148).

81–84, 86, 88–91, 93, 94, 251–54, 256, 258–61, 263, and 264 are unpatentable. *Id.* at 1364.

As for the method claims, the Federal Circuit agreed with the Board’s determination that Qualcomm’s petitions were deficient because “they ‘d[id] not speak to whether a person of ordinary skill in the art would have any reason to’ operate” the prior art in a manner that generates a plurality of integer-multiple harmonics. *Id.* at 1363. Accordingly, the court affirmed the Board’s determination that claims 25, 26, 363–66, 368, 369, and 373 were not proven unpatentable. *Id.* As noted above, ParkerVision stipulated in its briefing and at oral argument that claims 88–92 of the ‘372 patent are abandoned.

After the Federal Circuit issued its opinion, ParkerVision served Qualcomm with Supplemental Infringement Contentions, including updated infringement contention charts, that included each of the ‘940, ‘372, ‘907, and ‘177 patents and each claim identified for those four patents. (Doc. 284, p. 4).³ Litigation ensued over whether ParkerVision had abandoned some of the claims included in the infringement contention chart. (Docs. 284, 285, 289). The Court determined that ParkerVision had not abandoned the claims and held ParkerVision may proceed with the following patents and claims:

‘940 Patent (10 claims): 24, 25, 26, 331, 364, 365, 366, 368, 369, 373

‘372 Patent (12 claims): 95, 96, 99, 100, 103, 104, 107, 108, 109, 110, 126, 127

‘907 Patent (7 claims): 1, 2, 10, 13, 14, 15, 23

‘177 Patent (11 claims): 1, 2, 3, 5, 7, 8, 9, 10, 11, 12, 14

³ The case was stayed for three years due to the IPR and subsequent appeal

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.