EXHIBIT 4-3

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

PARKERVISION, INC.,

       Plaintiff,

vs.

QUALCOMM INCORPORATED,

       Defendant.

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QUALCOMM INCORPORATED,

       Counterclaim Plaintiff,

vs.

PARKERVISION, INC.; and STERNE,
KESSLER, GOLDSTEIN & FOX PLLC,

       Counterclaim Defendants.

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Case No. 3:11-cv-719-J-37TEM

ORDER

This cause is before the Court on the construction of forty-four terms that appear in eighty-nine claims of six U.S. patents.

BACKGROUND

ParkerVision contends that Qualcomm infringes, either directly or indirectly, the claims of U.S. Patent No. 6,061,551 ("the '551 Patent"), U.S. Patent No. 6,266,518 ("the '518 Patent"), U.S. Patent No. 6,370,371 ("the '371 Patent"), U.S. Patent No. 6,963,734 ("the '734 Patent"), U.S. Patent No. 7,496,342 ("the '342 Patent"), and U.S. Patent No. 7,724,845 ("the '845 Patent"). The patents-in-suit relate to methods, systems, and apparatuses used to convert electromagnetic signals from higher frequencies to lower

frequencies. Such down-conversion is used, for instance, in the operation of cellular telephones and similar devices.

The parties have requested pretrial claim construction by the Court. The parties presented a non-adversarial tutorial on the technology on July 24, 2012 (Doc. No. 146, July 24, 2012 Hr'g Tr.); submitted two joint statements (Doc. Nos. 110, 114); filed opening and closing briefs together with documents in support (Doc. Nos. 119, 120, 121, 122, 136, 137, 138, 139); and presented arguments at a claim construction hearing (Doc. No. 163, Aug. 8, 2012 Hr'g Tr.). The Court also appointed a technical advisor, Richard Egan of O'Keefe, Egan, Peterman & Enders, LLP. (Doc. No. 162.)

The Court now turns to the construction of the disputed claim terms.[1]

STANDARDS

Claim construction is a matter of law. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1330 (Fed. Cir. 2005) (en banc). The Federal Circuit directs district courts construing claim terms to focuses on intrinsic evidence—that is, the claims, specification, and prosecution histories—because intrinsic evidence is "the most significant source of the legally operative meaning of disputed claim language." *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996); *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 979 (Fed. Cir. 1995) (en banc), *aff'd*, 517 U.S. 370 (1996). Claim terms must be interpreted from the perspective of one of ordinary skill in the relevant art at the time of the invention. *Phillips*, 415 F.3d at 1313.

Claim construction starts with the claims, *id.* at 1312, and remains centered on the words of the claims throughout, *Interactive Gift Express, Inc. v. CompuServe, Inc.*,

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[1] The parties have agreed to the construction of a number of claim limitations (*see* Doc. No. 141, pp. 11–12; Doc. No. 137, p. 20), which the Court hereby adopts as stipulations.

256 F.3d 1323, 1331 (Fed. Cir. 2001). In the absence of an express intent to impart a different or unique meaning to claim terms, the terms are presumed to have their ordinary meaning. *Id.* Claim limitations, however, must be read in view of the specification and prosecution history. *Id.* Indeed, the specification is often "the single best guide to the meaning of a disputed term." *Phillips*, 415 F.3d at 1315.

ANALYSIS

For ease of reference, the Court's analysis of the forty-four disputed claim limitations proceeds in roughly the same order and format as presented by the parties in their Corrected Joint Claim Construction Pre-Hearing Statement. (Doc. No. 141.) Where possible, the Court discusses the construction of similar terms together.

1. Sampling and Similar Terms

In the claims identified in the table below, the patents-in-suit use the terms "sampling," "under-samples," "sub-sampling," and "sub-sample." The parties dispute the meaning of these terms as follows:

Term	Claims	ParkerVision	Qualcomm
"Sampling"	1, 2, 3, 12, 17, 24, 27, and 82 of the '518 Patent	"capturing energy of a signal at discrete times"	"reducing a continuous signal to a discrete signal"
"Under-samples"	5 and 13 of the '734 Patent[2]	"sampling at an aliasing rate"	"sampling at an aliasing rate using negligible apertures"

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[2] The term "under-sample" is also used in claims 97 and 98 of the '518 Patent.

Term	Claims	ParkerVision	Qualcomm
"Sub-sampling"	77, 81, 90, and 91 of the '518 Patent[3]		"sampling/sample at a sub-harmonic rate""
"Sub-sample"	1, 2, 22, 23, 25, and 31 of the '371 Patent		

The Court first considers the parties' arguments as they relate to "sampling." The Court then considers the arguments that relate to the remaining terms.

A. "Sampling"

ParkerVision contends that the term "sampling" used in the claims of the '518 Patent refers to the capturing of energy at discrete times, which is how one skilled in the art would understand the term in the context of these patents. (Doc. No. 122, pp. 9–10.) Qualcomm argues that one skilled in the art would understand the term sampling to refer to the process by which a continuous signal is reduced to a discrete signal. (Doc. No. 119, pp. 3–4.) Qualcomm also argues that ParkerVision's definition improperly inserts the concept of "capturing energy" into this term. (*Id.* at 4.) ParkerVision asserts that Qualcomm's definition does not place the term in the proper context and merely adopts "basic" terminology. (Doc. No. 122, p. 10.)

The patents-in-suit do not expressly define the term sampling, nor is the term defined or expanded upon in the file wrappers. The specification of the '518 Patent introduces the concept of sampling as follows:

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[3] *See* Doc. No. 141, p. 2. The Court notes that "sub-sampling" or a similar term is also found in claims 32, 77, 78, 90, and 93 of the '518 Patent.

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