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18 UNITED STATES DISTRICT COURT
 19 SOUTHERN DISTRICT OF CALIFORNIA

20 QUALCOMM INCORPORATED,

21 Plaintiff,

22 v.

23 APPLE INC.,

24 Defendant.

Case No. 3:17-CV-1375-DMS-MDD

**DEFENDANT AND COUNTERCLAIM
 PLAINTIFF APPLE INC.'S OPENING
 CLAIM CONSTRUCTION BRIEF**

Date: September 5, 2018
 Time: 9:00 a.m.
 Place: Courtroom 13A
 Judge: Hon. Dana M. Sabraw

25
 26
 27 AND RELATED COUNTERCLAIMS.
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 C. “during use” (’905 patent, claim 1; ’559 patent, claims 1, 2; ’534 patent, claim 1).....6

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1 **I. INTRODUCTION**

2 Proper claim construction begins with the plain meaning of terms informed by
3 the intrinsic evidence. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1314-15 (Fed. Cir. 2005).
4 For this reason, a usage consistent with and supported by the specification and the
5 embodiments within a patent is almost always the proper construction. *Id.* at 1316.
6 Deviations from the specification are unusual and justified by only an unmistakably clear
7 disclaimer. *GE Lighting Solutions, LLC v. AgiLight, Inc.*, 750 F.3d 1304, 1309 (Fed. Cir.
8 2014). Qualcomm nonetheless repeatedly violates these elementary tenets. Qualcomm
9 artificially restricts the claimed inventions by adding limitations that do not exist, relying
10 on cherry-picked specification quotes that Qualcomm misapplies to contradict the
11 complete teachings of the patents—sometimes embodiments described in the very next
12 sentence. Qualcomm also conjures indefiniteness arguments for nearly every asserted
13 claim—arguments that deny the plain language of the claims, deviate from the written
14 description, and disregard the knowledge of one of skill in the art.

15 For these reasons, Qualcomm’s constructions should be rejected. Apple’s
16 constructions, on the other hand, find solid support in the law and fit with the plain
17 meaning of the disputed terms and the intrinsic and extrinsic evidence.

18 **II. LEGAL STANDARDS FOR CLAIM CONSTRUCTION**

19 “It is a ‘bedrock principle’ of patent law that ‘the claims of a patent define the
20 invention to which the patentee is entitled the right to exclude,’” and as such claim
21 construction must focus on the claim language itself. *Phillips*, 415 F.3d at 1312. The
22 construction “that stays true to the claim language and most naturally aligns with the
23 patent’s description of the invention will be, in the end the correct construction.” *Id.* at
24 1316. Claim terms “are generally given their ordinary and customary meaning” as
25 understood by the skilled artisan at the time of the invention. *Id.* at 1313. “There are
26 only two exceptions to this general rule: 1) when a patentee sets out a definition and acts
27 as his own lexicographer; or 2) when the patentee disavows the full scope of a claim term

28 either in the specification or during prosecution.” *Thomson v. Sony Computer Entert. Am.*

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