Juanita R. Brooks, SBN 75934, brooks@fr.com
Seth M. Sproul, SBN 217711, sproul@fr.com
Frank Albert, SBN 247741, albert@fr.com
Joanna M. Fuller, SBN 266406, jfuller@fr.com
Robert M. Yeh, SBN 286018, ryeh@fr.com
Fish & Richardson P.C.
12390 El Camino Real
San Diego, CA 92130
Phone: 858-678-5070 / Fax: 858-678-5099

Ruffin B. Cordell, DC Bar No. 445801, *appearing pro hac vice*, cordell@fr.com
Lauren A. Degnan, DC Bar No. 452421, *appearing pro hac vice*, degnan@fr.com
Fish & Richardson P.C.
1000 Maine Avenue, S.W. Suite 1000
Washington, D.C. 20024
Phone: 202-783-5070 / Fax: 202-783-2331

Mark D. Selwyn (SBN 244180), mark.selwyn@wilmerhale.com
Wilmer Cutler Pickering Hale and Dorr LLP
950 Page Mill Road
Palo Alto, CA 94304
Phone: 650-858-6000 / Fax: 650-858-6100

Attorneys for Defendant/Counterclaim-Plaintiff Apple Inc.

[Additional counsel identified on signature page.]

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

QUALCOMM INCORPORATED,

Plaintiff,

v.

APPLE INC.,

Defendant.

AND RELATED COUNTERCLAIMS.

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

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

I. INTRODUCTION

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

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

II. LEGAL STANDARDS FOR CLAIM CONSTRUCTION

"It is a 'bedrock principle' of patent law that 'the claims of a patent define the invention to which the patentee is entitled the right to exclude,'" and as such claim construction must focus on the claim language itself. *Phillips*, 415 F.3d at 1312. The construction "that stays true to the claim language and most naturally aligns with the patent's description of the invention will be, in the end the correct construction." *Id.* at 1316. Claim terms "are generally given their ordinary and customary meaning" as understood by the skilled artisan at the time of the invention. *Id.* at 1313. "There are only two exceptions to this general rule: 1) when a patentee sets out a definition and acts as his own lexicographer; or 2) when the patentee disavows the full scope of a claim term either in the specification or during prosecution." *Thorner v. Sony Computer Entm't Am.*

DOCKET ALARM

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.