IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

PARKERVISION, INC. Plaintiff, v. QUALCOMM INCORPORATED, QUALCOMM ATHEROS, INC., HTC CORPORATION, HTC AMERICA, INC., SAMSUNG ELECTRONICS CO., LTD., SAMSUNG ELECTRONICS AMERICA, INC., and SAMSUNG TELECOMMUNICATIONS AMERICA, LLC Defendants.	CASE NO.: 6:14-CV-00687-PGB-KRS

JOINT STATUS REPORT AND REQUEST FOR SCHEDULING CONFERENCE

Plaintiff ParkerVision, Inc. ("ParkerVision") and Defendants Qualcomm Incorporated, Qualcomm Atheros, Inc., HTC Corporation, and HTC America, Inc., submit the following Joint Status Report and Request for Scheduling Conference pursuant to the Court's order dated December 3, 2018 at Docket No. 274.

The parties have met and conferred, but have been unable to reach agreement on a proposed schedule. ParkerVision's proposed schedule is attached as Exhibit A, and Defendants' proposed schedule is attached as Exhibit B.

The parties request an in-person scheduling conference with the Court. The parties are available at the Court's convenience, and propose the following potential dates: January 23 or 24.

ParkerVision's Statement

ParkerVision requests that its proposed schedule be adopted based on its similarity in adhering to the schedule for the case at the time of the stay. The Court stayed this case in February 2016, and trial was set for November 2016, only 9 months away. Nearly 3 years later, the stay is about to be lifted and ParkerVision contends that this case should be put back on the same track as was previously scheduled, particularly because the case will now involve only a subset of the originally asserted patents. ParkerVision's proposal allows time for the parties and the Court to determine the scope of the current case, while keeping the same pace as the original schedule. ParkerVision believes that Qualcomm's proposed schedule is inappropriate because it: 1) unnecessarily delays trial for nearly a year and a half with large gaps between deadlines, 2) deviates from the Court's standard case management report by splitting up a single event into multiple deadlines over an extended period of time (*e.g.*, disclosure of intent) and adds in deadlines not required (*e.g.*, initial response to invalidity contentions), and 3) keys deadlines off of the unknown timing of the Court's *Markman* order.

The concerns expressed by Qualcomm in its voluminous argument are premature at this stage given that ParkerVision has not yet elected patents, claims, or products, and ParkerVision's proposed schedule includes dates for these elections.

Defendants' Statement

ParkerVision's proposed schedule is unrealistic and untenable for at least three reasons.

First, ParkerVision recently indicated for the first time that it seeks to reassert new patent claims it abandoned long ago before the stay. After Defendants served noninfringement and invalidity contentions, ParkerVision dropped over 150 claims and six patents. (*E.g.*, Dkt. 228.) ParkerVision even moved to sever and stay some of its asserted patents and unilaterally decided

to stop seeking discovery relating to those patents. (*E.g.*, Dkt. 218, 229.) ParkerVision's infringement contentions, dated November 2015, also focused exclusively on certain claims and products. ParkerVision confirmed its claim election in correspondence to Defendants indicating that ParkerVision wished to narrow the case to a subset of asserted claims.

Recently, the Federal Circuit affirmed the Patent Office's final written decisions finding that all of the asserted '940 patent claims are invalid. *ParkerVision v. Qualcomm*, 903 F.3d 1354, 1364 (Fed. Cir. 2018). Now, ParkerVision states that it wishes to assert *different* claims from the '940 patent (even though it provided no infringement contentions for those claims in November 2015), as well as, assert other claims from the '372, '177, and '907 patents. The '177 and '907 patents are "receiver" patents impacted by the now-final decision in *ParkerVision I*. (Dkt. 218; *ParkerVision v. Qualcomm*, 621 F. App'x 1009, 1014 (Fed. Cir. July 31, 2015; *ParkerVision v. Qualcomm*, 627 F. App'x 921, 922 (Fed. Cir. Oct. 2, 2015) ("*ParkerVision I*").)

To date, ParkerVision has not revealed which specific claims it seeks to reassert, or which products it accuses.[1] Nor has ParkerVision provided any explanation for why it should be permitted to reassert patent claims it abandoned years ago. Because the parties and the Court will need to sort through whether ParkerVision can reassert claims it abandoned, which claims ParkerVision can assert, which products are properly accused, and what contentions, disclosures, and discovery is needed to litigate those claims, ParkerVision's artificially accelerated schedule is unrealistic.

Second, ParkerVision's proposed schedule does not allow the parties and the Court adequate time to sift through claim construction issues. Although the parties have submitted

[1] Defendants have been asking ParkerVision to identify its asserted claims since December 10.

briefs and attended hearings, this case was stayed before any order issued. Depending on what claims are at issue, new claim construction issues may arise, while others may no longer need resolution. Judicial efficiency would be promoted by waiting until the scope of the case is defined before renewing claim construction efforts.

Third, significant work remains to be done in this case. Prior to the stay, Defendants had noticed 7 depositions, as well as, a Rule 30(b)(6) deposition of ParkerVision. ParkerVision had noticed Rule 30(b)(6) depositions of Qualcomm and HTC. ParkerVision's Rule 30(b)(6) notices were facially overbroad and unreasonable, including hundreds of topics with many subparts. It will take time to sort through the parties' discovery disputes and schedule depositions. ParkerVision has also provided no indication that it has completed its document production, or that it does not seek any more documents from Defendants. Because significant work remains to be done, it is unrealistic to expect the parties to be ready for trial and the Court to have resolved all anticipated motions by November 2019.[2,3]

ParkerVision's proposal to adopt the schedule in place at the time of the stay should be rejected. ParkerVision cannot pretend on the one hand to desire to pick up where the parties left off, but on the other hand, to expand the claims it seeks to pursue – not recognize the limiting nature of the final judgment on the receiver patents in *ParkerVision 1*, and also ask the parties to spend the first four months of the proposed schedule redoing claim construction. At the time of the stay, the parties knew what patents and claims were at issue, the Court knew what claim

[2] ParkerVision erroneously argues that Defendants' proposed schedule contains large gaps. To the contrary, Defendants' proposed schedule takes into account the time needed for the parties and the Court to determine the scope of the case and to resolve claim construction, discovery disputes, and dispositive motions.

[3] ParkerVision's proposed November 2019 trial date also presents a potential conflict for Defendants' counsel depending on what week(s) are chosen. Defendants' counsel currently has trials set in October and beginning of December.

construction disputes needed to be resolved, and the parties were focused on narrowing the case. None of that is true now and ParkerVision's proposed schedule ignores this reality. Accordingly, ParkerVision's unrealistic schedule should be rejected, and the Court should enter Defendants' proposed schedule.

December 21, 2018

Respectfully submitted,

McKOOL SMITH, P.C.

/s/ Douglas A. Cawley
Douglas A. Cawley,
(Trial Counsel, pro hac vice)
Texas State Bar No. 04035500
E-mail: dcawley@mckoolsmith.com
Richard A. Kamprath (pro hac vice)
Texas State Bar No. 24078767
E-mail: rkamprath@mckoolsmith.com
McKool Smith P.C.
300 Crescent Court, Suite 1500
Dallas, Texas 75201
Telephone: (214) 978-4000
Facsimile: (214) 978-4044

Joshua W. Budwin (pro hac vice)
Texas State Bar No. 24050347
E-mail: jbudwin@mckoolsmith.com
Kathy H. Li (pro hac vice)
Texas State Bar No. 24070142
E-mail: kli@mckoolsmith.com
Leah Buratti (pro hac vice)
Texas State Bar No. 24064897
E-mail: lburatti@mckoolsmith.com
McKool Smith P.C.
300 West Sixth Street, Suite 1700
Austin, Texas 78701
Telephone: (512) 692-8700
Facsimile: (512) 692-8744

SMITH HULSEY & BUSEY

Stephen D. Busey
Florida Bar Number 117790
Email: sbusey@smithhulsey.com
Smith Hulsey & Busey
225 Water Street, Suite 1800
Jacksonville, Florida 32202
Telephone: (904) 359-7700
Facsimile (904) 359-7708

ATTORNEYS FOR PLAINTIFF PARKERVISION, INC.

COOLEY LLP

By */s/ Matthew J. Brigham*
Stephen C. Neal
(Trial counsel; admitted pro hac vice)
nealsc@cooley.com
Matthew J. Brigham (admitted pro hac vice)
mbrigham@cooley.com
Jeffrey Karr (admitted pro hac vice)
jkarr@coooley.com
3175 Hanover Street
Palo Alto, CA 94306-2155
Telephone: (650) 843-5000
Fax: (650) 849-7400

Eamonn Gardner (admitted pro hac vice)
egardner@cooley.com
4401 Eastgate Mall
San Diego, CA 92121-1909
Telephone: (858) 550-6000
Facsimile: (858) 550-6420

BEDELL, DITTMAR, DEVAULT, PILLANS & COXE, P.A.

John A. DeVault, III
Florida Bar No. 103979
jad@bedellfirm.com
The Bedell Building
101 East Adams Street
Jacksonville, Florida 32202
Telephone: (904) 353-0211
Facsimile: (904) 353-9307

ATTORNEYS FOR DEFENDANTS QUALCOMM INCORPORATED, QUALCOMM ATHEROS, INC., HTC CORPORATION, AND HTC AMERICA, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been served on all counsel of record via the Court's ECF system on December 21, 2018.

/s/ Kathy H. Li
Kathy H. Li