

**UNITED STATES DISTRICT COURT
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

**DEFENDANTS' RESPONSE TO PARKERVISION'S MOTION [DI 303]
FOR ADDITIONAL CLAIM CONSTRUCTION BRIEFING**

In accordance with the Court's August 14, 2019 Order (D.I. 304), Defendants submit the following response to Plaintiff's Motion (D.I. 303) regarding the claim terms requiring construction by the court, and the claim terms requiring further briefing.

After a meet-and-confer, the parties have agreed upon (i) the terms still requiring construction by the Court, but for which no further briefing is required (Section A), and (ii) the terms still requiring construction by the Court, and which the parties agree additional briefing is appropriate (Section B).

The only remaining dispute is whether the Court should entertain further briefing on "matched filtering/correlating module." As set forth in Section C, Defendants oppose ParkerVision's belated request to submit a completely new construction and new briefing on this term.

A. Parties' Agreed List of Terms Still Requiring Construction, But Not Requiring Further Briefing

The parties agree that the following terms are terms that still require construction, but which have been fully briefed by the parties and require no further briefing at this time:

Term	ParkerVision's Proposed Construction	Defendants' Proposed Construction	Briefing Dkt. No.
"desired harmonics" '940, '372 Patents	plain and ordinary meaning; or alternatively, "a plurality of harmonic frequencies that are desired"	a plurality of harmonic frequencies that are desired to be transmitted and that have sufficient amplitude for accomplishing the desired processing	148 171
"desired signal" '372 Patent	plain and ordinary meaning; or alternatively, "a signal/frequency selected for reception and/or transmission"	a frequency that is desired to be transmitted and that has sufficient amplitude for accomplishing the desired processing	148 171

Term	ParkerVision's Proposed Construction	Defendants' Proposed Construction	Briefing Dkt. No.
<p>"gating means"</p> <p>'372 Patent</p>	<p><u>Function</u>: "gating"</p> <p><u>Structure</u>: Figures 31A and 32A; Col. 2:24-45 and equivalents thereof</p>	<p><u>Function</u>: gating</p> <p><u>Structure</u>: a device with an input and an output that can take two states, open and closed, and when closed electrically connects its input and output such that the input and output have an equal voltage as shown and described in '372 patent at Figs 28A, 29A, 30A, 31A, 32A, 33A, 53, 54A, 55-57A-C, 66-70</p>	<p>148</p> <p>171</p>
<p>"summing means"</p> <p>'372 Patent</p>	<p><u>Function</u>: "summing an in-phase phase-modulated harmonically rich signal and a quadrature-phase phase-modulated harmonically rich signal" ('372 claim 99)</p> <p><u>Function</u>: "summing an in-phase phase-and amplitude-modulated harmonically rich signal and a quadrature-phase phase-and-amplitude-modulated harmonically rich signal" ('372 claim 103)</p> <p><u>Structure</u>: Figs. 8E, 34; Section 3.3.8 and equivalents thereof</p>	<p><u>Function</u>: summing said in-phase phase-modulated harmonically rich signal and said quadrature-phase phase-modulated harmonically rich signal ('372 claim 99);</p> <p><u>Function</u>: summing said in-phase phase-and-amplitude modulated harmonically rich signal and said quadrature-phase phase-and-amplitude-modulated harmonically rich signal ('372 claim 103)</p> <p><u>Structure</u>: '372 Patent Figs. 70 (summer 7085) and 71 (summer 7126)</p>	<p>148</p> <p>171</p>
<p>"said input signal"</p> <p>'177 Patent</p>	<p>Not Indefinite</p>	<p>Indefinite</p>	<p>149</p> <p>170</p>

B. Parties' Agreed List of Terms Requiring Further Briefing

The following terms are terms that the parties agree require additional briefing:

Term	ParkerVision's Proposed Construction	Defendants' Proposed Construction
"harmonic" / "harmonics" '940, '372 Patents	"frequency or tone that, when compared to its fundamental or reference, is an integer multiple including $n=1$ /the fundamental"	"a frequency or tone that, when compared to its fundamental or reference frequency or tone, is an integer multiple of it . . . where the integer is 2, 3, 4, etc."
"switch" / "switch module" '940, '372 Patents	"device with an input and output that can take two states, open and closed, as dictated by an independent control input"	"device with an input and output that can take two states, open and closed"
"to gate" / "gating" '940, '372 Patents	"to change/changing between the open and closed states of a device that can take two states, open and closed, as dictated by an independent control input"	"to change / changing between (i) connecting a signal at an input to an output such that the input and output have an equal voltage, and (ii) disconnecting the signal from the output"
"summer" '940, '372 Patents	plain and ordinary meaning. or alternatively, "circuitry that sums two or more signals"	"a device that sums two or more signals"
"bias signal" '940 Patent		"(1) a signal having a steady, predetermined level or (2) the original baseband signal at the source"

C. Terms for Which There is a Dispute Regarding Whether Additional Briefing Should be Permitted

ParkerVision is trying to misuse this Court's current procedure in order to insert a new theory into this case through its newfound 94-word construction of "matched filtering/correlating module." This is improper. ParkerVision had a full opportunity to raise

this theory four years ago (in 2015), and should not be permitted to raise it now.

ParkerVision sole basis as to why it should be allowed to introduce its new claim construction theory is that the Federal Circuit's *Williamson v. Citrix Online* opinion represents an intervening change of law. 792 F.3d 1339 (Fed. Cir. June 16, 2015) (*en banc*). (See PV Motion (D.I. 303) at 4-5.) ParkerVision fails to mention, however, that the parties already had a full and fair opportunity to brief *Williamson* and to address any impact it had on this case. Indeed, after the *Williamson* decision was issued, the parties submitted numerous briefs regarding the impact of that decision on this case. (See, e.g., D.I. 196, 215, 216, and 221.) Not once did ParkerVision ever raise its new theory regarding the construction of "matched filtering/correlating module." Instead, ParkerVision specifically represented to this Court that "[t]he Federal Circuit's recent *Williamson* decision does not require the construction of any additional terms in this case." (D.I. 221 at 1.)

ParkerVision had a full opportunity to address *Williamson* and chose not to. The Court should not permit to introduce its new theory now.

Dated: August 21, 2019

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and forgoing document has been served on all counsel of record via the Court's ECF system on August 21, 2019.

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