

**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

**PARKERVISION, INC.’S REPLY IN SUPPORT OF ITS MOTION FOR ADDITIONAL
CLAIM CONSTRUCTION BRIEFING AND IDENTIFICATION
OF TERMS WHICH CONTINUE TO REQUIRE CONSTRUCTION**

Plaintiff ParkerVision, Inc. (“ParkerVision”) files this reply in support of its motion to receive additional claim construction briefing on the term “matched filtering/correlating module” in U.S. Patent No. 7,865,177 (Dkt. 303).

Qualcomm opposes ParkerVision’s motion to brief a new construction of “matched filtering/correlating module,” arguing that the sole basis for ParkerVision’s motion is the Federal Circuit’s decision in *Williamson v. Citrix Online*, 792 F.3d 1339 (Fed. Cir. 2015) (*en banc*). Dkt. 305 at 3-4. Qualcomm does not contest that *Williamson* was an intervening change in the law, having acknowledged at the *Markman* hearing that “ParkerVision’s counsel correctly noted that *Williamson* came out after they submitted their opening brief.” Claim Construction Hearing Transcript at 32. Qualcomm also does not contest that *Williamson* is germane to the proper construction of the “matched filter/correlating module” term. As Qualcomm put it, “*Williamson*

is perfectly consistent with our construction, and it really confirms it.” *Id.* Qualcomm was candid with the Court in acknowledging that its proposed construction “really is 112, 6.” *Id.* Qualcomm’s counsel characterized its proposed construction as “going straight to the structure,” an approach Qualcomm argued is perfectly consistent with *Williamson*. *Id.* At the same time it extolled the “structural,” “112, 6” nature of its post-*Williamson* construction, Qualcomm criticized the so-called “functional” nature of ParkerVision’s pre-*Williamson* proposed construction: “ParkerVision proposes a purely functional construction for this structural claim term.” *Id.* at 33.

Williamson changed the law governing when it is proper to limit claims to structure disclosed in a patent (and equivalent structure) under 35 U.S.C. § 112, 6. *Williamson*, 792 F.3d at 1349. Because Qualcomm leveraged *Williamson* to justify that its construction “really is 112, 6” and goes “straight to the structure” (Claim Construction Hearing Transcript at 32), the Court should grant ParkerVision leave to brief its post-*Williamson* construction that properly embodies the “matched filtering/correlating module” structure disclosed in the ’940 patent. Dkt. 303 at 3.

Qualcomm suggests that ParkerVision had a full opportunity four years ago to brief *Williamson* and to address any impact it had on the case. Dkt. 305 at 3-4. Qualcomm claims “the parties submitted numerous briefs regarding the impact of [*Williamson*] on this case” (*Id.* at 4, citing Dkts. 196, 215, 216, and 221), but fails to explain that to the extent those “briefs” related to *Williamson* and claim-construction, they were in regard only to the construction of “Modulation and Frequency Selection Module” and “Pulse Shaping Module”/“Pulse Shaper.” These two different claim terms were subject to Qualcomm’s then-pending motion to construe, not to any Order by the Court calling for briefing related to *Williamson*. Dkt. 174. Neither of those two terms remains at issue in the case. Dkt. 305 at 1-3. The parties have not previously

briefed *Williamson*'s impact on the proper construction of the "matched filter/correlating module" term, and the Court's Case Management and Scheduling Order (Dkt. 92) did not call for such briefing.

Both Qualcomm (Claim Construction Hearing Transcript at 28-36) and the Court (*id.* at 4-5) have recognized of the importance of the Federal Circuit's *en banc* decision in *Williamson* to the claim-construction process and, in particular, to the proper construction of the "matched filter/correlating module" terms. Because the Court has not yet considered a post-*Williamson* proposal from ParkerVision to construe the "matched filter/correlating module" terms, ParkerVision respectfully seeks leave to present its post-*Williamson* construction and supporting briefing for the Court's consideration.¹

¹ Qualcomm's assertion that "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" (Docket 305 at 4) is immaterial. The "matched filter/correlating module" terms have been subject to the Court's claim construction process (Dkt. 124 (Joint Claim Construction Statement) at 10-11); they are not "additional terms in this case."

August 30, 2019

Respectfully submitted,

McKool Smith, P.C.

/s/ Douglas A. Cawley

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***ATTORNEYS FOR PLAINTIFF
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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 August 30, 2019.

/s/ Josh Budwin

Josh Budwin