

United States District Court,  
S.D. California.

**QUALCOMM INCORPORATED,**  
Plaintiff.

v.

**BROADCOM CORPORATION,**  
Defendants.

**Broadcom Corporation,**  
Counter-Claimant.

v.

**Qualcomm Incorporated,**  
Counter-Defendant.

Civil No. 05CV1662-B(BLM)

**May 2, 2006.**

Barry Jerome Tucker, Heller Ehrman, San Diego, CA, E. Joshua Rosenkranz, Heller Ehrman, Richard S. Taffet, Bingham McCutchen, New York, NY, Gregg A. Duffey, Peter J. Chassman, Howrey Simon Arnold and White, Houston, TX, William K. West, Jr., Howrey LLP, Washington, DC, Aaron Schur, Chad Russell, Rianne E. Nolan, Bingham McCutchen, San Francisco, CA, David E. Kleinfeld, Heller Ehrman, San Diego, CA, for Plaintiff.

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William K. West, Jr., Howrey LLP, Washington, DC, Aaron Schur, Chad Russell, Rianne E. Nolan, Bingham McCutchen, San Francisco, CA, David E. Kleinfeld, Heller Ehrman, San Diego, CA, for Counter-Defendant.

**CLAIM CONSTRUCTION ORDER FOR UNITED STATES PATENT NUMBER 6,359,872**

**RUDI M. BREWSTER, Senior Judge.**

Pursuant to *Markman v. Westview Instruments, Inc.*, 517 U.S. 370, 116 S.Ct. 1384, 134 L.Ed.2d 577 (1996), on April 18, 2006, the Court conducted a *Markman* hearing concerning the above-titled patent infringement action regarding construction of the disputed claim terms for U.S. Patent Number 6,359,872 ("the '872 patent"). Plaintiff Qualcomm, Inc. was represented by the law firm of Howry LLP and Heller Ehrman LLP,

and Defendant Broadcom Corp. was represented by the law firm of Wilmer Cutler Pickering Hale and Dorr LLP.

At the Markman hearing, the Court, with the assistance of the parties, analyzed the claim terms in order to prepare jury instructions interpreting the pertinent claims at issue in the '872 patent. Additionally, the Court prepared a case glossary for terms found in the claims and specification for the '872 patent considered to be technical in nature which a jury of laypersons might not understand clearly without a specific definition.

After careful consideration of the parties' arguments and the applicable statutes and case law, the Court **HEREBY CONSTRUES** the claims in dispute for the '872 patent and **ISSUES** the relevant jury instructions as written in Exhibit A, attached hereto. Further, the Court **HEREBY DEFINES** all pertinent technical terms as written in Exhibit B, attached hereto.

**IT IS SO ORDERED.**

*EXHIBIT A FN1*

*UNITED STATES PATENT NUMBER 6,359,872-CLAIM CHART*

<b>VERBATIM CLAIM LANGUAGE</b>	<b>COURT'S CONSTRUCTION</b>
<b>Claim 8</b>	<b>Claim 8</b>
8. A wireless communication network comprising:	A wireless communication network <i>comprising</i> [ <i>including but not limited to</i> ]:
a stationary wireless network supporting wireless communication throughout an area;	a <i>stationary wireless network</i> [ <i>a network that can communicate wirelessly and that has at least one fixed component for transmission and reception</i> ] supporting wireless communication throughout an area;
a first wireless roaming device;	a first <i>wireless roaming device</i> [ <i>a device that is capable of being moved while in operation relative to the stationary wireless network and that can communicate wirelessly</i> ];
a second wireless roaming device;	a second <i>wireless roaming device</i> ;
the first and second wireless roaming devices forming a roaming wireless network that operates independent of the stationary wireless network;	the first and second <b>wireless roaming devices</b> forming a roaming wireless network that <b>operates independent of the stationary wireless network</b> [ <i>The devices in the roaming wireless network can communicate with one another whether or not any of the devices in the roaming wireless network can communicate with the stationary wireless network</i> ];

at least one of the first and second wireless devices capable of participating on the stationary wireless network; and

the roaming wireless network existing whether or not the first and second wireless roaming devices are within the area of the stationary wireless network.

**Claim 9**

at least one of the first and second wireless devices capable of participating on the *stationary wireless network*; and

the roaming wireless network *existing whether or not the first and second wireless roaming devices are within the area of the stationary wireless network* [ *The roaming wireless network can exist regardless of whether the first and second wireless roaming devices are out of the range of the stationary wireless network* ].

**Claim 9**

9. The wireless communication network of claim 8 wherein only the first wireless roaming device is capable of participating on the stationary wireless network.

**Claim 10**

10. The wireless communication network of claim 9 wherein the first wireless roaming device participates on the stationary wireless network pursuant to control by the stationary wireless network.

**Claim 11**

11. The wireless communication network of claim 10 wherein the first wireless roaming device controls communication on the roaming wireless network.

**Claim 13**

13. The wireless communication network of claim 8 wherein the first wireless roaming device controls communication on the roaming wireless network.

9. The wireless communication network of claim 8 wherein *only the first wireless roaming device is capable of participating on the stationary wireless network* [ *one and only one device in the roaming wireless network is capable of participating on the stationary wireless network* ].

**Claim 10**

10. The wireless communication network of claim 9 wherein the first *wireless roaming device* participates on the *stationary wireless network* pursuant to control by the *stationary wireless network*.

**Claim 11**

11. The wireless communication network of claim 10 wherein the first *wireless roaming device* controls communication on the roaming wireless network.

**Claim 13**

13. The wireless communication network of claim 8 wherein the first *wireless roaming device* controls communication on the roaming wireless network.

**EXHIBIT B**

***UNITED STATES PATENT NUMBER 6,359,872-GLOSSARY OF TERMS***

<b><i>TERM</i></b>	<b><i>DEFINITION</i></b>
<b>comprising</b>	including but not limited to
<b>existing whether or not the first and second wireless roaming devices are within the area of the stationary wireless network</b>	The roaming wireless network can exist regardless of whether the first and second wireless roaming devices are out of the range of the stationary wireless network.
<b>only the first wireless roaming device is capable of participating on the stationary wireless network</b>	one and only one device in the roaming wireless network is capable of participating on the stationary wireless network
<b>operates independent of the stationary wireless network</b>	the devices in the roaming wireless network can communicate with one another whether or not any of the devices in the roaming wireless network can communicate with the stationary wireless network
<b>stationary wireless network</b>	a network that can communicate wirelessly and that has at least one fixed component for transmission and reception
<b>wireless roaming device</b>	a device that is capable of being moved while in operation relative to the stationary wireless network and that can

communicate wirelessly

FN1. All terms appearing in bold face type and underlined have been construed by the court and appear with their definitions in the glossary in Exhibit B. The definition for each construed term appears in italics after its first use in the patent.

S.D.Cal.,2006.

Qualcomm Inc. v. Broadcom Corp.

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