

United States District Court,
S.D. California.

QUALCOMM INCORPORATED,
Plaintiff.

v.

BROADCOM CORPORATION,
Defendants.

BROADCOM CORPORATION,
Counter-Claimant.

v.

QUALCOMM INCORPORATED Counter-Defendant,
QUALCOMM INCORPORATED Counter-Defendant.

No. Civ. 05CV1392-B(BLM)

May 2, 2006.

Adam Arthur Bier, Christian E. Mammen, James R. Batchelder, Day Casebeer Madrid and Batchelder, Kevin Kook Tai Leung, Law Office of Kevin Kook Tai Leung, Cupertino, CA, Barry Jerome Tucker, David E. Kleinfeld, Foley & Lardner LLP, James T. Hannink, Kathryn Bridget Riley, Randall Evan Kay, Brooke Beros, DLA Piper US, Brandon Hays Pace, Heller Ehrman LLP, Heidi Maley Gutierrez, Higgs Fletcher and Mack, San Diego, CA, E. Joshua Rosenkranz, Nitin Subhedar, Heller Ehrman, Richard S. Taffet, Bingham McCutchen, Evan R. Chesler, Richard J Stark, Cravath Swaine and Moore LLP, New York, NY, Jaideep Venkatesan, Heller Ehrman, Menlo Park, CA, Jason A Yurasek, Perkins Coie LLP, San Francisco, CA, Patrick Taylor Weston, McCutchen Doyle Brown and Enersen, Walnut Creek, CA, William F. Abrams, Bingham McCutchen, East Palo Alto, CA, for Plaintiff.

Alejandro Menchaca, Andrew B. Karp, Brian C. Bianco, Christopher N. George, Consuelo Erwin, George P. Mcandrews, Gregory C. Schodde, Joseph F. Harding, Lawrence M. Jarvis, Leonard D. Conapinski, Matthew A. Anderson, Ronald H. Spuhler, Scott P. McBride, Stephen F. Sherry, Thomas J. Wimbiscus, Jean Dudek Kuelper, McAndrews Held and Malloy, Chicago, IL, Allen C. Nunnally, Daniel M. Esrick, John J. Regan, John S. Rhee, Joseph F. Haag, Kate Saxton, Richard W. O'Neill, Louis W. Tompros, Stephen M. Muller, Vinita Ferrera, Wayne L. Stoner, William F. Lee, Wilmer Cutler Pickering Hale and Dorr, Boston, MA, James Sullivan McNeill, Robert S. Brewer, Jr, McKenna Long and Aldridge, San Diego, CA, James L Quarles, III, William J. Kolasky, Wilmer Cutler Pickering Hale and Dorr LLP, Alina D. Eldred, Mark W. Nelson, Steven J. Kaiser, Cleary Gottlieb Steen and Hamilton, Washington, DC, Maria Kathleen Vento, Mark D. Selwyn, Wilmer Cutler Pickering Hale and Dorr LLP, Palo Alto, CA, for Defendant.

CLAIM CONSTRUCTION ORDER FOR UNITED STATES PATENT NUMBER 5,590,408

BREWSTER, Senior J.

Pursuant to *Markman v. Westview Instruments, Inc.*, 517 U.S. 370, 116 S.Ct. 1384, 134 L.Ed.2d 577 (1996), on April 4-6, 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 5,590,408 ("the '408 patent"). Plaintiff Qualcomm, Inc. was represented by the law firm of Day Casebeer Madrid & Batchelder 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 '408 patent. Additionally, the Court prepared a case glossary for terms found in the claims and specification for the '408 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 '408 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 5,590,408-CLAIM CHART

VERBATIM CLAIM LANGUAGE	COURT'S CONSTRUCTION
Claim 1	Claim 1
<p>A method for limiting transmit power of a radio operating in a radio communications system, the radio communications system comprising at least one base station that transmits signals including power control commands to the radio, the radio comprising a variable gain amplifier and a maximum gain setting, the method comprising the steps of:</p>	<p>A method for limiting <i>transmit power of a radio</i> [<i>level of the power transmitted by the radio</i>] operating in a <i>radio</i> [<i>a transmitter, receiver, or transceiver used for communication via electromagnetic waves</i>] communications system, the radio communications system <i>comprising</i> [<i>including but not limited to</i>] at least one <i>base station</i> [<i>in a wireless communications system, any fixed station that communicates with mobile stations</i>] that transmits signals including <i>power control commands</i> [<i>commands from the base station instructing the radio to turn up or turn down power</i>] to the <i>radio</i>, the <i>radio</i> comprising a variable gain amplifier and a <i>maximum gain setting</i> [<i>upper limit on the gain setting</i>], the method <i>comprising</i> the steps of:</p>
<p>determining an open loop power control value in response to a signal received from the at least one base station;</p>	<p>determining an <i>open loop power control value</i> [<i>the value of the automatic gain control setpoint determined by the radio</i>] in response to a signal received from the at least one <i>base station</i>;</p>
<p>determining a gain adjust signal in response to the transmitted power control commands;</p>	<p>determining a <i>gain adjust signal</i> [<i>a signal that can be used to change the gain of the variable gain amplifier. Gain is the ratio of output signal power to input signal power.</i>] in response to the transmitted <i>power control commands</i> [<i>commands from the base station instructing the radio to turn up or turn down power</i>];</p>

combining the open loop power control value and the gain adjust signal to produce a summation signal;

combining the *open loop power control value* and the *gain adjust signal* to produce a summation signal;

comparing the summation signal to the maximum gain setting;

comparing the summation signal to the *maximum gain setting* [*upper limit on the gain setting*];

if the summation signal is greater than or equal to the maximum gain setting, adjusting the variable gain amplifier in response to the maximum gain setting; and

if the summation signal is greater than or equal to the *maximum gain setting*, *adjusting* [*changing*] the *variable gain amplifier* [*an amplifier whose gain can be changed up or down*] in response to the *maximum gain setting*; and

if the summation signal is less than the maximum gain setting, adjusting the variable gain amplifier in response to the summation signal.

if the summation signal is less than the *maximum gain setting*, *adjusting* the *variable gain amplifier* in response to the summation signal.

EXHIBIT B

UNITED STATES PATENT NUMBER 5,590,408-GLOSSARY OF TERMS

TERM	DEFINITION
adjusting	<i>changing</i>
base station	<i>in a wireless communications system, any fixed station that communicates with mobile stations</i>
comprising	<i>including but not limited to</i>
gain	<i>the ratio of output signal power to input signal power</i>
gain adjust signal	<i>a signal that can be used to change the gain of the variable gain amplifier</i>
maximum gain setting	<i>upper limit on the gain setting</i>
open loop power control value	<i>the value of the automatic gain control setpoint determined by the radio</i>
power control commands	<i>commands from the base station instructing the radio to turn up or turn down power</i>
radio	<i>a transmitter, receiver, or transceiver used for communication via electromagnetic waves</i>
transmit power of a radio	<i>level of the power transmitted by the radio</i>
variable gain amplifier	<i>an amplifier whose gain can be changed up or down</i>

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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