

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. 05CV1392-B(BLM)

Aug. 28, 2006.

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CLAIM CONSTRUCTION ORDER FOR UNITED STATES PATENT NUMBER 6,714,559

RUDI M. BREWSTER, Senior District Judge.

Pursuant to *Markman v. Westview Instruments, Inc.*, 517 U.S. 370, 116 S.Ct. 1384, 134 L.Ed.2d 577 (1996), on June 5-8 and August 21, 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 6,714,559 ("the '559 patent"). Plaintiff Qualcomm, Inc. was represented by the law firm of Heller Ehrman LLP, and Defendant Broadcom Corp. was represented by the law firm of McAndrews, Held & Malloy, Ltd.

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 '559 patent. Additionally, the Court prepared a case glossary for terms found in the claims and specification for the '559 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 '559 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 6,714,559-CLAIM CHART

VERBATIM CLAIM LANGUAGE	COURT'S CONSTRUCTION
Claim 6	Claim 6
6. A method of beginning a data exchange over a wireless communication channel between a destination device and a sending device comprising:	6. A method of beginning a data exchange over a wireless communication channel between a destination device and a sending device <i>comprising</i> [<i>including but is not limited to</i>]:
waiting, by the sending device, a period of time that is at least as long as a predetermined time period and detecting no communication on the wireless communication channel;	waiting, by the sending device, a period of time that is at least as long as a predetermined time period and <i>detecting no communication</i> [<i>detecting no transmission of information</i>] on the wireless communication channel;
attempting, by the sending device, to initiate communication to the destination device; and	attempting, by the sending device, to initiate communication to the destination device; and
if the attempt to initiate communication to the destination device proves successful, transmitting, by the sending device, a series of packets wherein each two consecutive packet transmissions are separated by no more than the predetermined time period.	if the attempt to initiate communication to the destination device proves successful, transmitting, by the sending device, a series of <i>packets</i> [<i>bundles of data organized in a specific way for transmission</i>] wherein each two consecutive packet transmissions are separated by no more than the predetermined time period.
Claim 8	Claim 8
8. The method of claim 6 wherein if the beginning of the period of time during which no communication is detected coincides with the end of a detected transmission, attempting to avoid	8. The method of claim 6 wherein if the beginning of the period of time during which no communication is detected coincides with the end of a detected transmission, attempting to avoid collisions by delaying

collisions by delaying a random period before attempting to initiate communication to the destination device.	a random period before attempting to initiate communication to the destination device.
Claim 9	Claim 9
9. The method of claim 6 which comprises immediately attempting to initiate communication to the destination device if traffic on the wireless communication channel is below a predetermined level.	9. The method of claim 6 which <i>comprises</i> [<i>includes but is not limited to</i>] immediately attempting to initiate communication to the destination device if traffic on the wireless communication channel is below a predetermined level.
Claim 14	Claim 14
14. A method of beginning communication within a wireless communication network among a plurality of devices comprising:	14. A method of beginning communication within a wireless communication network among a plurality of devices <i>comprising</i> :
determining whether communication is being performed from a first device of the plurality of devices to a second device of the plurality of device, the communication being performed on a communication channel within the wireless communication network;	determining whether communication is being performed from a first device of the plurality of devices to a second device of the plurality of device, the communication being performed on a communication channel within the wireless communication network;
initiating communication between the first device and the second device after determining that no communication is being performed; and	initiating communication between the first device and the second device after determining that no communication is being performed; and
continuing the communication when the communication proves successful.	continuing the communication when the communication proves successful.
Claim 19	Claim 19
19. The method of claim 14 wherein at least one of the first device and the second device comprises a polling device.	19. The method of claim 14 wherein at least one of the first device and the second device <i>comprises a polling device</i> [<i>a device that invites other devices to transmit</i>].
Claim 20	Claim 20
20. The method of claim 14 further comprising transmitting a request for poll frame by at least one of the first device and the second device.	20. The method of claim 14 further comprising transmitting a <i>request for poll frame</i> [<i>a request for an invitation to transmit</i>] by at least one of the first device and the second device.

EXHIBIT B

UNITED STATES PATENT NUMBER 6,714,559-GLOSSARY OF TERMS

TERM	DEFINITION
comprises	includes but is not limited to
comprising	including but is not limited to
detecting no communication	detecting no transmission of information
packets	bundles of data organized in a specific way for transmission
polling device	a device that invites other devices to transmit

**request for poll
frame**

a request for an invitation to transmit

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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