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)

Oct. 27, 2006.

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CLAIM CONSTRUCTION ORDER FOR UNITED STATES PATENT NUMBER 5,544,196

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

Pursuant to Markman v. Westview Instruments, Inc., 517 U.S. 370 (1996), on September 25-28, 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 5,544,196 ("the '196 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 '196 patent. Additionally, the Court prepared a case glossary for terms found in the claims and specification for the '196 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 '196 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

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.

UNITED STATES PATENT NUMBER 5,544,196-CLAIM CHART

VERBATIM CLAIM LANGUAGE	**COURT'S CONSTRUCTION**
Claim 1	**Claim 1**
1. An apparatus for reducing collisions between transmitted messages in a communications network, said apparatus having a unique identification code, said apparatus comprising:	1. An apparatus for reducing ***collisions*** [*the overlap of signals that the receiver cannot distinguish*] between transmitted messages in a communications network, said apparatus having a unique identification code, said apparatus ***comprising*** [*including, but not limited to*]:
processor means for providing a message;	***processor means for providing a message*** [*processor circuit at least for providing a message*];
a timing generator for providing a delay time in response to	a timing generator for providing a delay time in response to said unique identification code;

said unique identification code;	
an encoder for delaying said message by said delay time; and	an ***encoder*** [*a device that expresses one or more characters in terms of a code*] for delaying said message by said delay time; and
Claim 9	**Claim 9**
9. A method for reducing collisions between messages in a communications network having a plurality of transmitters and at least one receiver, each of said transmitters having a unique identification code, said method comprising the repeated steps of:	9. A method for reducing collisions between messages in a communications network having a plurality of transmitters and at least one receiver, each of said transmitters having a unique identification code, said method ***comprising*** the repeated steps of:
generating a message;	generating a message;
delaying said message by a delay time corresponding to said identification code; and	delaying said message by a delay time corresponding to ***said identification code*** [*the unique identification code*]; and
transmitting said delayed message at a time determined in accordance with said unique identification code, said transmitted message having a power level.	transmitting ***said delayed message*** at a time determined in accordance with said unique identification code, said transmitted message having a power level.
Claim 10	**Claim 10**
10. The method for reducing collisions between messages described in claim 9, wherein:	10. The method for reducing ***collisions*** between messages described in claim 9, wherein:
said transmitted delayed message is a direct sequence spread spectrum signal spread using a PN code sequence having	said transmitted delayed message is a direct sequence spread spectrum signal spread using a PN code sequence having a chip rate; and

a chip rate; and	
said delay time is equal to or greater than one chip.	said delay time is equal to or greater than one chip.
Claim 16	**Claim 16**
16. In a communications device, an apparatus for reducing collisions between messages of said communications device and other communication devices in a communications network, said apparatus comprising:	16. In a communications device, an apparatus for reducing ***collisions*** between messages of said communications device and other communication devices in a communications network, said apparatus ***comprising:***
processor means for providing a timing signal in accordance with a unique identification code, and for providing a message in response to said timing signal; and	***processor means for providing a timing signal in accordance with a unique identification code, and for providing a message in response to said timing signal*** [*processor circuit at least for providing a timing signal in accordance with a unique identification code and for providing a message in response to the timing signal*]; and
transmitter means for transmitting said message at a time determined in accordance with said unique identification code.	***transmitter means for transmitting said message at a time determined in accordance with said unique identification code*** [*transmitter that transmits the message at a time determined in accordance with the unique identification code*].
Claim 17	**Claim 17**
17. The apparatus of claim 16 further comprising an encoder for encoding said message for transmission according to a predetermined coding format.	17. The apparatus of claim 16 further ***comprising*** an ***encoder*** for encoding said message for transmission according to a predetermined coding format.
Claim 18	**Claim 18**
18. The apparatus of claim 16 wherein said processor means is	18. The apparatus of claim 16 wherein said processor means is further for encoding said message for transmission according to a predetermined coding format.

further for encoding said message for transmission according to a predetermined coding format.	
Claim 31	**Claim 31**
31. In a communications device, an apparatus for reducing collisions between messages of said communications device and other communication devices in a communications network said apparatus comprising:	31. In a communications device, an apparatus for reducing ***collisions*** between messages of said communications device and other communication devices in a communications network said apparatus ***comprising:***
processor means for providing a timing signal in accordance with a unique identification code, and for providing a message in response to said timing signal,	***processor means for providing a timing signal in accordance with a unique identification code, and for providing a message in response to said timing signal,***
wherein said processor means further includes means for generating a first random number within a backoff delay range of numbers and means for providing second timing signal responsive to said first random number and said timing signal and means for further delaying the provision of said message in response to said second timing signal;	wherein said processor means further includes ***means for generating a first random number within a backoff delay range of numbers [This is a means-plus-function limitation.*** *The function is generating a first random number within a backoff delay range of numbers. The corresponding structure is processor 100 of Fig. 5 programmed to generate a random number within a backoff delay range of numbers (steps 168, 210, and/or 240 of Fig. 6a, b).*] ***and means for providing a second timing signal responsive to said first random number and said timing signal [This is a means-plus-function limitation.*** *The function is providing a second timing signal responsive to the first random number and the timing signal. The corresponding structure is Processor 100 of Fig. 5 programmed to provide a second timing signal responsive to the first random number and said timing signal (reflected in steps 212, 242, and/or 170 in Figs. 6a, 6b).*] and ***means for further delaying the provision of said message in response to said second timing signal [This is a means-plus-function limitation.*** *The function is further delaying the provision of the message in response to the second timing signal. The corresponding structure is Processor 100 of Fig. 5 programmed to further delay the provision of said message in response to said second timing signal (steps 212, 242, and/or 170 in Figs. 6a, 6b).*];
an encoder for encoding said message for	an ***encoder*** for encoding said message for transmission according to a predetermined coding format; and

transmission according to a predetermined coding format; and	
transmitter means for transmitting said message.	***transmitter means for transmitting said message*** [*transmitter that transmits the message*].
Claim 43	**Claim 43**
43. A circuit for reducing collisions between messages of a communications device with other communications devices in a communications network, said circuit comprising:	43. A circuit for reducing ***collisions*** between messages of a communications device with other communications devices in a communications network, said circuit ***comprising:***
a processor circuit having an output for providing a timing signal determined in accordance with a unique identification code and having a second output for providing a message responsive to said timing signal; and	a processor circuit having an output for providing a timing signal determined in accordance with a unique identification code and having a second output for providing a message responsive to said timing signal; and
a transmitter having an input coupled to said processor circuit second output, said transmitter for transmitting said message at a time determined in accordance with said unique identification code.	a transmitter having an input coupled to said processor circuit second output, said transmitter for transmitting said message at a time determined in accordance with said unique identification code.
Claim 44[FN2]	**Claim 44**

FN2. This claim is a dependent claim of Claim 43, but contains no terms that require construction.

44. The circuit of claim 43 wherein said	44. The circuit of claim 43 wherein said processor is further for

processor is further for encoding said message for transmission according to a predetermined coding format.	encoding said message for transmission according to a predetermined coding format.
Claim 45	**Claim 45**
45. A circuit for reducing collisions between messages of a communications device with other communications devices in a communications network, said circuit comprising:	45. A circuit for reducing ***collisions*** between messages of a communications device with other communications devices in a communications network, said circuit ***comprising:***
A processor circuit having an output for providing a timing signal determined in accordance with an identification code and having means for encoding a message for transmission as an encoded message according to a predetermined coding format,	A processor circuit having an output for providing a timing signal determined in accordance with an ***identification code*** [*a code associated with a particular communications device*] and having ***means for encoding a message for transmission as an encoded message according to a predetermined coding format*** ***[This is a means-plus-function limitation.*** *The function is encoding a message for transmission as an encoded message according to a predetermined coding format. The corresponding structure is encoder 140 of Fig. 5.*],
said processor circuit further including a second output for providing said encoded message responsive to said timing signal and means for generating a first random number within a backoff delay range of numbers	said processor circuit further including a second output for providing said encoded message responsive to said timing signal and ***means for generating a first random number within a backoff delay range of numbers***
and means for providing a second timing signal responsive to said first random number and said timing signal	and ***means for providing a second timing signal responsive to said first random number and said timing signal***
and means for further delaying the provision of said message responsive to said second timing signal; and	and ***means for further delaying the provision of said message responsive to said second timing signal;*** and
a transmitter having an input coupled to said processor circuit second output.	a transmitter having an input coupled to said processor circuit second output.
Claim 57	**Claim 57**
57. A method for reducing collisions between messages in a communications network wherein a time period is divided into slots of predetermined durations and each transmitter has a unique identification code, said method comprising the steps of:	57. A method for reducing ***collisions*** between messages in a communications network wherein a time period is divided into slots of predetermined durations and each transmitter has a unique identification code, said method ***comprising*** the steps of:
(a) providing a message;	(a) providing a message;
(b) generating a random number from a first range of numbers; and	(b) generating a random number from a first range of numbers; and
(c) delaying said message by a number of said slots equal to said random number.	(c) delaying said message by a number of said slots equal to said random number.
Claim 62	**Claim 62**
62. In a spread spectrum communications system in which a plurality of remote	62. In a spread spectrum communications system in which a plurality of remote stations communicate messages to a base

stations communicate messages to a base station, an apparatus in each remote station for reducing collisions between messages of said remote stations, said system comprising:	station, an apparatus in each remote station for reducing ***collisions*** between messages of said remote stations, said system ***comprising:***
processor means for providing a timing signal, wherein said timing signal is determined in accordance with a unique identification code and for providing said message responsive to said timing signal; processor means for providing a timing signal, wherein said timing signal is determined in accordance with a unique identification code and for providing said message responsive to said timing signal;	
spreading means for direct sequence spreading said message; and	***spreading means for direct sequence spreading said message [This is a means-plus-function limitation.*** *The function is direct sequence spreading a message. The corresponding structure is PN long code sequence generator 146 and XOR function 152 in Fig. 5.];* and
transmitter means for transmitting said direct sequence spread message at a time determined in accordance with said unique identification code.	***transmitter means for transmitting said direct sequence spread message at a time determined in accordance with said unique identification code*** [*transmitter that transmits the direct sequence spread message at a time in accordance with the unique identification code*].
Claim 64	**Claim 64**
64. In a spread spectrum communications system in which a plurality of remote stations communicate messages to a base station, an apparatus in each remote station for reducing ***collisions*** between messages of said remote stations, said system comprising:	64. In a spread spectrum communications system in which a plurality of remote stations communicate messages to a base station, an apparatus in each remote station for reducing ***collisions*** between messages of said remote stations, said system ***comprising:***
processor means for providing a timing signal, wherein said timing signal is determined in accordance with a unique identification code and for providing said message responsive to said timing signal, said processor means further including means for encoding said message for transmission according to a predetermined coding format and means for generating a first random number within a backoff delay range of numbers and means for providing a second timing signal responsive to said first random number and said timing signal and means for further delaying the provision of said message responsive to said second timing signal;	processor means for providing a timing signal, wherein said timing signal is determined in accordance with a unique identification code and for providing said message responsive to said timing signal, said processor means further including ***means for encoding said message for transmission according to a predetermined coding format [This is a means-plus-function limitation.*** *The function is encoding the message for transmission according to a predetermined coding format. The corresponding structure is encoder 140 in Fig. 5.*] and ***means for generating a first random number within a backoff delay range of numbers and means for providing a second timing signal responsive to said first random number and said timing signal and means for further delaying the provision of said message responsive to said second timing signal;***

spreading means for direct sequence spreading said message; and	***spreading means for direct sequence spreading said message;*** and
transmitter means for transmitting said direct sequence spread message.	***transmitter means*** [*transmitter that sends the direct sequence spread message*] for transmitting said direct sequence spread message.
Claim 72	**Claim 72**
72. In a spread spectrum communications system in which a plurality of remote stations each having a unique identification code communicate messages to a base station, an apparatus in each remote station for reducing collisions between messages of said remote stations, said apparatus comprising:	72. In a spread spectrum communications system in which a plurality of remote stations each having a unique identification code communicate messages to a base station, an apparatus in each remote station for reducing ***collisions*** between messages of said remote stations, said apparatus ***comprising:***
a processor for determining a delay value in accordance with said unique identification code and having an output for providing said message responsive to said delay value; and	a processor for determining a delay value in accordance with said unique identification code and having an output for providing said message responsive to said delay value; and
a transmitter having an input coupled to said processor second output and an output for transmitting said message at a time determined in accordance with said unique identification code.	a transmitter having an input coupled to said processor second output and an output for transmitting said message at a time determined in accordance with said unique identification code.

EXHIBIT B

UNITED STATES PATENT NUMBER 5,544,196-GLOSSARY OF TERMS

TERM	DEFINITION
collisions	the overlap of signals that the receiver cannot distinguish
comprising	including, but not limited to
encoder	a device that expresses one or more characters in terms of a code
identification code	a code associated with a particular communications device
means for encoding a message for transmission as an encoded message according to a predetermined coding format	**This is a means-plus-function limitation.** The function is encoding a message for transmission as an encoded message according to a predetermined coding format. The corresponding structure is encoder 140 of Fig. 5.
means for encoding said message for transmission according to a predetermined coding format	**This is a means-plus-function limitation.** The function is encoding the message for transmission according to a predetermined coding format. The corresponding structure is encoder 140 in Fig. 5.
means for further delaying the provision of said message in response to said second timing signal	**This is a means-plus-function limitation.** The function is further delaying the provision of the message in response to the second timing signal. The corresponding structure is Processor 100 of Fig. 5 programmed to further delay the provision of said message in response to said second timing signal (steps 212, 242, and/or 170 in Figs. 6a, 6b).
means for generating a first	**This is a means-plus-function limitation.** The function is generating a

random number within a backoff delay range of numbers	first random number within a backoff delay range of numbers. The corresponding structure is processor 100 of Fig. 5 programmed to generate a random number within a backoff delay range of numbers (steps 168, 210, and/or 240 of Fig. 6a, b).
means for providing a second timing signal responsive to said first random number and said timing signal	**This is a means-plus-function limitation.** The function is providing a second timing signal responsive to the first random number and the timing signal. The corresponding structure is Processor 100 of Fig. 5 programmed to provide a second timing signal responsive to the first random number and said timing signal (reflected in steps 212, 242, and/or 170 in Figs. 6a, 6b).
processor means for providing a message	processor circuit at least for providing a message
processor means for providing a timing signal in accordance with a unique identification code, and for providing a message in response to said timing signal	processor circuit at least for providing a timing signal in accordance with a unique identification code and for providing a message in response to the timing signal
said delayed message	the message that has been delayed by the delay time
said identification code the unique identification code	
spreading means for direct sequence spreading said message	**This is a means-plus-function limitation.** The function is direct sequence spreading a message. The corresponding structure is PN long code sequence generator 146 and XOR function 152 in Fig. 5.
transmitter means	transmitter that sends the direct sequence spread message
transmitter means for transmitting said message at a time determined in accordance with said unique identification code	transmitter that transmits the message at a time determined in accordance with the unique identification code
transmitter means for transmitting said message	transmitter that transmits the message
transmitter means for transmitting said direct sequence spread message at a time determined in accordance with said unique identification code	transmitter that transmits the direct sequence spread message at a time in accordance with the unique identification code

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