

1 COOLEY LLP  
TIMOTHY S. TETER (171451)  
2 (teterts@cooley.com)  
JEFFREY S. KARR (186372)  
3 (jkarr@cooley.com)  
MATTHEW J. BRIGHAM (191428)  
4 (mbrigham@cooley.com)  
BENJAMIN G. DAMSTEDT (230311)  
5 (bdamstedt@cooley.com)  
3175 Hanover Street  
6 Palo Alto, CA 94304  
Tel: 650-843-5000  
7 Fax: 650-849-7400

8 ERIN C. TREND A (277155)  
(etrenda@cooley.com)  
9 4401 Eastgate Mall  
San Diego, CA 92121  
10 Tel: 858-550-6147  
Fax: 858-550-6420

11 Attorneys for Plaintiff Qualcomm Incorporated

12  
13 UNITED STATES DISTRICT COURT  
14 SOUTHERN DISTRICT OF CALIFORNIA  
15 SAN DIEGO DIVISION

17 QUALCOMM INCORPORATED,

18 Plaintiff,

19 v.

20 PARKERVISION, INC.

21 Defendant.

Case No. '15CV2809 BEN NLS

**COMPLAINT FOR DECLARATORY  
JUDGMENT**

**JURY TRIAL DEMANDED**

1 Plaintiff Qualcomm Incorporated (“Qualcomm”) hereby alleges as follows  
2 for this Complaint for Declaratory Judgment against ParkerVision, Inc.:

3 **Parties**

4 1. Qualcomm Incorporated is a Delaware corporation with its principal  
5 place of business at 5775 Morehouse Drive, San Diego, California.

6 2. ParkerVision is a Florida corporation with its principal place of  
7 business at 7915 Baymeadows Way, Jacksonville, Florida.

8 **Jurisdiction and Venue**

9 3. This action is based on the patent laws of Title 35 of the United States  
10 Code, § 1 et seq., with a specific remedy sought under the Federal Declaratory  
11 Judgments Act, 28 U.S.C. §§ 2201 and 2202 and Rule 57 of the Federal Rules of  
12 Civil Procedure.

13 4. This Court has subject matter jurisdiction over this Complaint for  
14 Declaratory Judgment pursuant to 28 U.S.C. §§ 1331 and 1338(a).

15 5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391  
16 and 1400, because ParkerVision is subject to personal jurisdiction in this judicial  
17 district.

18 **Factual Background and Present Controversy**

19 6. ParkerVision has engaged in a series of litigations against Qualcomm.

20 7. On July 20, 2011, ParkerVision sued Qualcomm in the Middle District  
21 of Florida, asserting that certain Qualcomm receiver functionality infringed certain  
22 ParkerVision patents. (“*ParkerVision I*”)

23 8. Following a jury trial, the district court in *ParkerVision I* entered  
24 judgment of noninfringement on all asserted claims on June 23, 2014.

25 9. ParkerVision appealed the judgment of noninfringement and  
26 Qualcomm cross-appealed the judgment of no invalidity.

27 10. On July 31, 2015, the Federal Circuit issued an opinion affirming the  
28 judgment of noninfringement and also finding that 10 of the 11 claims asserted at

1 trial were invalid as a matter of law.

2 11. On October 2, 2015, the Federal Circuit issued an order denying  
3 ParkerVision's Petition for Panel Rehearing.

4 12. ParkerVision has indicated that it intends to file a petition for a writ of  
5 certiorari with the Supreme Court with respect to the noninfringement judgment.

6 13. On May 2, 2014, ParkerVision again sued Qualcomm in the Middle  
7 District of Florida, asserting that certain Qualcomm receiver functionality and  
8 certain Qualcomm transmitter functionality infringed certain ParkerVision patents.  
9 (*"ParkerVision II"*)

10 14. The parties are continuing to litigate the *ParkerVision II* case, with  
11 trial currently scheduled for August 2016.

12 15. ParkerVision also purports to own U.S. Patent No. 7,929,638 ("the  
13 '638 patent"). The '638 patent issued on April 19, 2011, from an application filed  
14 on January 14, 2010.

15 16. A copy of the '638 patent is attached as Exhibit A.

16 17. The '638 patent includes two independent claims (claims 1 and 16)  
17 and 18 dependent claims (claims 2-15 and 17-20). The two independent '638  
18 claims recite:

19 1. A wireless modem apparatus, comprising:

20 a balanced transmitter for up-converting a baseband  
21 signal, said balanced transmitter including,

22 an inverter, to receive said baseband signal and generate  
23 an inverted baseband signal;

24 a first controlled switch, coupled to a non-inverting output  
25 of said inverter, said first controlled switch to sample said  
26 baseband signal according to a first control signal,  
27 resulting in a first harmonically rich signal;

28 a second controlled switch, coupled to an inverting output  
of said inverter, said second controlled switch to sample

1 said inverted baseband signal according to a second  
2 control signal, resulting in a second harmonically rich  
3 signal; and

4 a combiner, coupled to an output of said first controlled  
5 switch and an output of said second controlled switch,  
6 said combiner to combine said first harmonically rich  
7 signal and said second harmonically rich signal, resulting  
8 in a third harmonically rich signal.

9 \* \* \* \* \*

10 16. A method for up-converting a baseband signal,  
11 comprising:

12 receiving a baseband signal at an inverter;

13 inverting said baseband signal to generate an inverted  
14 baseband signal;

15 sampling said baseband signal according to a first control  
16 signal to generate a first harmonically rich signal;

17 sampling said inverted baseband signal according to a  
18 second control signal to generate a second harmonically  
19 rich signal; and

20 combining said first harmonically rich signal and said  
21 second harmonically rich signal to generate a third  
22 harmonically rich signal.

23 18. By letter dated December 11, 2015, ParkerVision served a cease-and-  
24 desist letter by hand-delivery on Qualcomm relating to the '638 patent. The letter  
25 bore the subject line: "Infringement of the intellectual property of ParkerVision,  
26 Inc. – U.S. Patent No. 7,929,638." The letter also stated, *inter alia*:

27 We have been retained by ParkerVision, Inc.  
28 ("ParkerVision") in relation to ParkerVision's intellectual  
property. Qualcomm markets and sells to, among others,  
Apple Inc. and its affiliates, Samsung Electronics Co.,  
Ltd. and its affiliates, and LG Electronics Co., Ltd. and its  
affiliates radio frequency ("RF") receivers, transmitters,

1 and transceivers for inclusion in smartphone handsets and  
2 tablet computers sold in the United States.

3 When used in their customary and intended manner, the  
4 referenced components that you design, manufacture, and  
5 sell, including but not limited to the WTR1625 and the  
6 WTR3925, infringe at least certain of the inventions  
7 claimed by U.S. Patent No. 7,929,638 ('638 Patent),  
8 which ParkerVision owns. A copy of this patent is  
9 attached.

10 ParkerVision demands that you immediately cease  
11 offering for sale any and all products that induce or  
12 contribute to the infringement of ParkerVision's patents,  
13 including the '638 Patent.

14 We welcome the opportunity to resolve this matter  
15 quickly. We look forward to hearing from you.

16 19. A copy of the letter is attached as Exhibit B.

17 20. This controversy is between parties having adverse legal interests and  
18 is of sufficient immediacy and reality to warrant issuance of a declaratory judgment  
19 under 28 U.S.C. § 2201(a) as to the alleged infringement of the '638 patent by  
20 Qualcomm or its technology.

### 21 First Count

#### 22 Declaration of Noninfringement of the '638 Patent

23 21. Qualcomm incorporates by reference and re-alleges the allegations in  
24 the preceding paragraphs.

25 22. ParkerVision claims to be the owner of all right, title, and interest in  
26 the '638 patent.

27 23. ParkerVision has accused Qualcomm of infringing the '638 patent and  
28 has created a substantial, immediate and real controversy between the parties as to  
the infringement of the '638 patent.

29 24. Qualcomm has not infringed, and currently does not infringe, any valid  
claim of the '638 patent directly, indirectly, contributorily, by inducement, or in any

1 other manner, and ParkerVision is entitled to no relief for any claim of alleged  
2 infringement.

3 25. Therefore, there exists a substantial controversy between Qualcomm  
4 and ParkerVision, parties having adverse legal interests, of sufficient immediacy  
5 and reality to warrant the issuance of a declaratory judgment that Qualcomm has  
6 not infringed and does not infringe any valid and enforceable claim of the '638  
7 patent.

8 26. An actual and justiciable controversy exists regarding the alleged  
9 infringement of the '638 patent by Qualcomm. Qualcomm accordingly requests a  
10 judicial determination of any rights, duties, and obligations with regard to the '638  
11 patent.

12 27. A judicial declaration is necessary and appropriate so that Qualcomm  
13 may ascertain its rights regarding the '638 patent.

14 **Prayer for Relief**

15 WHEREFORE, Qualcomm respectfully requests that this Court enter a  
16 Judgment and Order:

- 17 A. Declaring that Qualcomm does not infringe any claim of the '638  
18 patent;
- 19 B. Finding that this case is an exceptional case pursuant to 35 U.S.C.  
20 § 285 or otherwise, and awarding Qualcomm its costs, together with  
21 reasonable attorneys' fees and all of its expenses for this suit; and
- 22 C. Awarding Qualcomm any other costs, fees, and further relief as the  
23 Court may deem just and proper.

24 **Jury Demand**

25 Pursuant to Federal Rule of Civil Procedure 38(b) and Civil Local Rule 38.1,  
26 Qualcomm demands trial by jury on all issues so triable as to this Complaint for  
27 Declaratory Judgment.

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: December 15, 2015

/s/ Timothy S. Teter

TIMOTHY S. TETER (171451)  
JEFFREY S. KARR (186372)  
MATTHEW J. BRIGHAM (191428)  
BENJAMIN G. DAMSTEDT (230311)  
COOLEY LLP  
3175 Hanover Street  
Palo Alto, CA 94304  
Tel: 650-843-5000  
Fax: 650-849-7400

ERIN C. TREND A (277155)  
(etrenda@cooley.com)  
4401 Eastgate Mall  
San Diego, CA 92121  
Tel: 858-550-6147  
Fax: 858-550-6420

Attorneys for Plaintiff Qualcomm  
Incorporated

125380890