the accumulation of energy from several aperture periods, whereas the structures identified by ParkerVision are not linked to the claimed functions. (Doc. No. 137, p. 19.)

This dispute is related to the parties' disagreements regarding the "integrating energy" terms and the "accumulating the result" term. Qualcomm's arguments distinguish between energy that accumulates over aperture periods and energy that accumulates during an aperture period. Because the Court has rejected Qualcomm's attempts to limit the scope of the previous terms in that fashion, the Court also rejects its attempt to limit the scope of these terms.

Accordingly, the Court adopts ParkerVision's proposed claim construction for these terms. The function associated with the means-plus-function limitation "means for generating the baseband signal from the integrated energy" is "generating the baseband signal from the integrated energy." The structure that corresponds to that function is "any arrangement of (i) one or more of the switch circuitry controlled by any one of pulse generators and (ii) one or more of the energy storage circuitry disclosed or described in Figures 63, 64A, 64B, 65, 67A, 68G, 69, 74, 76A–E, 77A–C, 82A, 82B, 86, 88, 90, 92, 94A, 95, 101, 110, 111, or equivalents thereof." The function associated with "means for generating the second signal from the integrated energy" is "generating the second signal from the integrating energy." The structure that corresponds to that function is "any arrangement of (i) one or more of the switch circuitry controlled by any one of pulse generators and (ii) one or more of the energy storage circuitry disclosed or described in Figures 63, 64A, 64B, 65, 67A, 68G, 69, 74, 76A–E, 77A–C, 82A, 82B, 86, 88, 90, 92, 94A, 95, 101, 110, 111, or equivalents thereof."

* * * * *

Qualcomm also raises two indefiniteness issues. (Doc. No. 119, p. 25.) The first is related to certain "words of degree" that are used in "the claims of the '551 Patent and '518 Patent in which they appear." (*Id.*) The second relates to the use of what Qualcomm contends are undefined mathematical terms that appear in claim 4 of the '845 Patent. (*Id.*)

The Court declines to address Qualcomm's arguments at this time. First, Qualcomm does not ask the Court to construe terms related to these issues; rather, Qualcomm seeks an adjudication of one of its affirmative defenses. Such a request should be made in the form of a dispositive motion, where it can put the opposing party on notice of the potential adjudication of claims and can be briefed in a comprehensive fashion. *Cf. Milburn v. United States*, 734 F.2d 762, 765–66 (11th Cir. 1984) (holding that district courts should not convert pretrial motions to a motion for summary judgment under Federal Rule of Civil Procedure 56 where the opposing party has not been notified of the potential adjudication of claims).

Second, Qualcomm's argument relating to "words of degree" is not well-defined. There are 204 claims in the '551 Patent and 99 claims in the '518 Patent. This Court is not inclined to rule on a potentially dispositive issue where its proponent has not specifically identified all of the claims to which the argument applies. Nor is it possible for the Court to scour 303 patent claims on its own so that it can fully appreciate the scope of the relief requested.

Qualcomm may raise these issues again on summary judgment, if it so chooses.

CONCLUSION

The Court therefore construes the disputed claim terms as set forth above. **IT IS SO ORDERED**.

DONE AND ORDERED in Chambers in Jacksonville, Florida, on February 20, 2013.

ROY B. DALTON JR.
United States District Judge

Copies:

Counsel of Record