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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SOENG-HUN KIM, SUNG-HO CHOI,
KOOK-HEUI LEE, JOON-GOO PARK, SUNG-OH HWANG,
EUN-JUNG KIM, and KYEONG-IN JEONG

Appeal 2010-006876
Application 10/845,001
Technology Center 2600

Before ROBERT E. NAPPI, KRISTEN L. DROESCH, and HUNG H. BUI, *Administrative Patent Judges*.

BUI, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants[1] seek our review under 35 U.S.C. § 134(a) of the Examiner's Final Rejection of claims 27, 30-32, 35-37, 40-42, and 45-46. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.[2]

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[1] Real Party in Interest is Samsung Electronics Co. Ltd.

[2] Our decision refers to Appellants' Appeal Brief filed October 19, 2009 ("App. Br."); Reply Brief filed March 8, 2010 ("Reply Br."); Examiner's Answer mailed January 7, 2010; and the original Specification filed May 13, 2004 ("Spec.").

I. STATEMENT OF THE CASE

Appellants' Invention

Appellants' invention relates to a mobile communication system supporting a Multimedia Broadcast/Multicast Service (MBMS) and a method for transmitting MBMS control information for supporting an MBMS service to user equipment (UE). This way the user equipment (UE) can rapidly and simply receive MBMS control information for an MBMS service. *See generally* Spec. 1:16-19; 4:4-10 and Abstract.

Claims on Appeal

Claims 27, 32, 37, and 42 are independent. Claim 27 is representative of the invention, as reproduced below with disputed limitations emphasized:

> 27. A method for transmitting Multimedia Broadcast/Multicast Service (MBMS) control information for supporting an MBMS service in a mobile communication system including a network and a mobile station, the method comprising:
>
> configuring, by the network, a Secondary Common Control Physical Channel (S-CCPCH) system information MBMS message to include Forward Access Channel (FACH) information for at least one FACH, the ***FACH information including MBMS Control Channel (MCCH) configuration information indicating that an MCCH is included within a FACH of the at least one FACH***; and
>
> transmitting, from the network to the mobile station, the S-CCPCH system information MBMS message including the FACH information.

Evidence Considered

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Benedittis	U.S. 2003/0076812 A1	Apr. 24, 2003
Willenegger	U.S. 2003/0207696 A1	Nov. 6, 2003
Sarkkinen	U.S. 2003/0211855 A1	Nov. 13, 2003

Examiner's Rejections

(1) Claims 27, 30, 32, 35, 37, 40, 42, and 45 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Willenegger and Sarkkinen. Ans. 3-10, 12-20.

(2) Claims 31, 36, 41, and 46 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Willenegger, Sarkkinen, and Benedittis. Ans. 11-13.

II. ISSUE

The dispositive issue on appeal is whether the Examiner has erred in rejecting claims 27, 30, 32, 35, 37, 40, 42, and 45 under 35 U.S.C. §103(a) as being unpatentable over Willenegger and Sarkkinen. App. Br. 9-25; Reply Br. 1-4. In particular, the issue turns on whether Willenegger and Sarkkinen discloses or suggests "*the FACH information including MBMS Control Channel (MCCH) configuration information indicating that an MCCH is included within a FACH of the at least one FACH*" as recited in independent claims 27 and 37, and similarly recited in independent claims 32 and 42 (App. Br. 6-24; Reply Br. 1-4) (*emphasis added*).

III. DISCUSSION

We have reviewed the Examiner's rejections in light of Appellants' arguments that the Examiner has erred.

We disagree with Appellants' conclusions as to all rejections. We adopt as our own (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken and (2) the reasons set forth by the Examiner in the Examiner's Answer in response to Appellants' Appeal Brief. We also concur with the conclusions reached by the Examiner and further highlight and address specific findings and arguments for emphasis as follows.

Independent Claims 27, 32, 37, and 42

Appellants contend that the combination of Willenegger and Sarkkinen does not disclose or suggest "the FACH information including MBMS Control Channel (MCCH) configuration information indicating that an MCCH is included within a FACH of the at least one FACH" as recited in independent claim 27 and 37, and similarly recited in independent claims 32 and 42. App. Br. 6-24; Reply Br. 1-4. In particular, Appellants argue that:

> (1) Willenegger only discloses, in ¶¶0310-0315, a signaling message including respective information of a physical channel, a transport channel and a logical channel, mapping information of a logical-physical channel, and mapping information of a transport channel-physical channel, and further discloses, in ¶0059 and ¶0065, that **S-SCCPCH and FACH as examples of the physical channel and the transport channel**, and mapping relations of "physical channel (S-CCPCH) – transport channel (FACH) – logical channel", but fails to disclose or suggest a specific example of the logic channel, and "***the FACH information including MBMS Control Channel (MCCH) configuration information***

> ***indicating that an MCCH is included within a FACH of the at least on FACH***," and the relations between each of the included information (App. Br. 12; Reply Br. 1-3); and
>
> (2) Sarkkinen merely discloses a logical channel corresponding to an MBMS control channel (MCCH) and, therefore, fails to cure deficiencies of Willenegger (App. Br. 12; Reply Br. 3).

However, we do not find Appellants' arguments persuasive to demonstrate reversible error in the Examiner's position. *In re Jung*, 637 F.3d 1356, 1365 (Fed. Cir. 2011). As correctly found by the Examiner, Willenegger discloses a mobile communication system, shown in FIG. 1, for supporting a Multimedia Broadcast/Multicast (MBMS) service by transmitting MBMS control information ("'Various types of control information and service data may be transmitted to implement MBMS. The control information comprises all information besides service data' see [0095]"). Ans. 12. Examples of MBMS control information include:

> network configuring physical channel system information ("configuration or Reconfiguration ... Physical channel information" see [0310]-[0313]) to include Transport channel information (see [0312] and [0315]), the information including logical channel configuration information ("Information on mapping of logical channel to transport channel" see [0314]) indicating that a logical channel is included within a transport channel of the at least transport channel (see [0050] and [0059]). Since . . . the terms of transport and physical channels being defined by W-CDMA by specifically stated in [0050], **[0059] and [0065] as <u>Forward Access Channel (FACH) and a Secondary Common Control Physical Channel (SCCPCH)</u>.** Thus . . . Willenegger teaches claimed limitation "configuring ("configuration or Reconfiguration" see [0310]), by the network, a Secondary Common Control Physical Channel (S-CCPCH) (Note: S-CCPCH is defined as a physical

> channel; see [0050] and [0065]) system information ("Physical channel information" see [0313] and [0315]) MBMS message ("MBMS content" see [0309]) to include **Forward Access Channel (FACH) information** ("Transport channel information" see [0312] and [0315]) for at least one FACH (Note: FACH is defined as a transport channel; see [0050] and [0059]), the information including logical channel configuration information ("Information on mapping of logical channel to transport channel" see [0314]) indicating that a logical channel is included within a FACH of the at least one FACH (Note: FACH is defined as a transport channel; see [0050] and [0059]). . . .

Ans. 12-13 (emphasis added).

As also correctly found by the Examiner, Willenegger discloses in ¶0059 and ¶0065 that secondary common control physical channel (S-CCPCH) and forward access channel (FACH) are used as a common physical channel and a common transport channel respectively, as defined by W-CDMA, and in ¶0310-¶0315 that the physical channel (S-CCPCH), the transport channel (FACH), and the logical channel are mapped along with information on mapping of logical channel to transport channel (FACH). In addition, Willenegger further discloses in ¶0198 that the transport channel (FACH) is included in the physical channel (S-CCPCH) to form a broadcast channel.

"Every patent application and reference relies to some extent upon knowledge of persons skilled in the art to complement that disclosed . . . ." *In re Bode*, 550 F.2d 656, 660 (CCPA 1977) (quoting *In re Wiggins*, 488 F.2d 538, 543 (CCPA 1973)). Those persons "must be presumed to know something" about the art "apart from what the references disclose." *In re Jacoby*, 309 F.2d 513, 516 (CCPA 1962). Persons skilled in MBMS

services are presumed to understand that, when MBMS control information (MCCH) is transmitted over a common transport channel such as forward access channel (FACH) as defined by W-CDMA and disclosed by Willenegger (¶0059), the forward access channel (FACH) is necessarily inclusive of information indicating that the MBMS control information (MCCH) is included within the forward access channel (FACH).

In view of such a disclosure, we agree with the Examiner's factual findings regarding Willenegger, and find the Examiner's factual findings are supported by a preponderance of the evidence, including, for example: (1) the forward access channel (FACH) is included in the secondary common control physical channel (S-CCPCH), and (2) the forward access channel (FACH) includes information indicating that MBMS control information (MCCH) is included therein, i.e., "the FACH information including MBMS Control Channel (MCCH) configuration information indicating that an MCCH is included within a FACH of the at least one FACH" as recited in independent claim 27 and 37, and similarly recited in independent claims 32 and 42. Ans. 13, 15, 17, 19. We also agree with the Examiner that Sarkkinen is simply cited to establish that the logical channel is MBMS control channel (MCCH), as previously disclosed by Willenegger. Ans. 13, 15, 17, 19.

For all the reasons set forth above, Appellants have not persuaded us of error in the Examiner's rejection of claims 27, 32, 37, and 42 and their respective dependent claims 30-31, 35-36, 40-41, and 45-46, which were not separately argued. Accordingly, we sustain the Examiner's rejections of claims 27, 30-32, 35-37, 40-42, and 45-46 under 35 U.SC §103(a).

V. CONCLUSION

On the record before us, we conclude that the Examiner has not erred in rejecting: (1) claims 27, 30, 32, 35, 37, 40, 42, and 45 under 35 U.S.C. §103(a) as being unpatentable over Willenegger and Sarkkinen; and (2) claims 31, 36, 41, and 46 under 35 U.S.C. § 103(a) as being unpatentable over Willenegger, Sarkkinen, and Benedittis.

VI. DECISION

As such, we affirm the Examiner's final rejection of claims 27, 30-32, 35-37, 40-42, and 45-46 under 35 U.S.C. §103(a).

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv) (2011).

AFFIRMED

msc