



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/564,298	11/29/2006	Chih-Hsiang Wu	ASTP0208USA3	2327
27765	7590	01/31/2013	EXAMINER	
NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION P.O. BOX 506 MERRIFIELD, VA 22116			LEE, CHI HO A	
			ART UNIT	PAPER NUMBER
			2472	
			NOTIFICATION DATE	DELIVERY MODE
			01/31/2013	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patent.admin.uspto.Rcv@naipo.com
mis.ap.uspto@naipo.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte CHIH-HSIANG WU

Appeal 2010-008452
Application 11/564,298
Technology Center 2400

Before JOSEPH F. RUGGIERO, CAROLYN D. THOMAS,
and JOHN A. EVANS, *Administrative Patent Judges*.

RUGGIERO, *Administrative Patent Judge*.

DECISION ON APPEAL
STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from the Final Rejection of claim 1, the only claim pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Rather than reiterate the arguments of Appellant and the Examiner, we refer to the Appeal Brief (filed May 19, 2009), the latest Answer (Dec. 22, 2009), and the latest Reply Brief (filed Feb. 10, 2010). We have considered in this decision only those arguments Appellant actually raised in

ANALYSIS

At the outset, we note that the Examiner has relied upon Vialen for a teaching of performing a re-establishment procedure for a Radio Link Control Acknowledged Mode (RLC AM entity after connections are lost (Ans. 3). Additionally, the Examiner (Ans. 9) has relied upon the 3GPP Standard (incorporated by reference within Vialen) for a teaching of resetting state variables to their initial value after re-establishment (Section 9.7.7), and the use of a Timer_MRW timer (Section 9.5) to trigger retransmission of a status report (STATUS PDUs).

According to the Examiner, since the state variables in the RLC AM entity of Vialen/3GPP are reset to their initial values after re-establishment, there would be no functional need for a status report since there would be no missing Protocol Display Units (PDUs). In the Examiner's view, therefore, the stopping of the MRW_Timer timer in Vialen/3GPP would be an obvious expedient (Ans. 9).

Appellant contends that the Examiner's position is based upon improper hindsight reliance on the teachings of Appellant's own disclosure (App. Br. 4-5). We do not agree. We find that the Examiner's analysis, discussed *supra*, provides an articulated line of reasoning with a rational underpinning to support the conclusion of obviousness. The Supreme Court has held that in analyzing an obviousness rationale, a court need not find specific teachings, but rather may consider "the background knowledge possessed by a person having ordinary skill in the art" and "the inferences and creative steps that a person of ordinary skill in the art would employ." *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007).

We further find that Appellant's arguments during prosecution of this application actually support the Examiner's ultimate determination of the obviousness of the claimed invention. At page 3 of the response filed January 7, 2009, Appellant makes the point, repeated at page 4 of the Appeal Brief, that the known alternatives to handling the Timer_MRW timer after a RLC AM re-establishment procedure are to STOP, RESTART, or SUSPEND.

We note that the Supreme Court has held that, when there are a finite number of known identified, predictable solutions, ordinarily skilled artisans would have had a good reason to pursue the known options within their grasp, *see KSR*, at 421. Accordingly, we find that the choice of stopping the Timer_MRW timer in Vialen/3GPP instead of the other known alternatives of restarting or suspending the Timer_MRW timer would have been obvious to the ordinarily skilled artisan and would have yielded predictable results. We also find that, although Vialen does not explicitly discuss Timer_MRW timers, Vialen's disclosure that timers involved in the re-establishment procedure are stopped after re-establishment is completed further supports the Examiner's determination of obviousness (Fig. 3; ¶ 0065).

Lastly, we find Appellant's arguments in the Reply Brief unpersuasive of any error in the Examiner's determination of obviousness with respect to the stopping of the Timer_MRW timer after a re-establishment procedure. Appellant directs attention to the fact that 3GPP discloses that other timers, in particular, the Timer_Status_Periodic timer, are not stopped after re-establishment is completed (Reply Br. 2). We do not find that the stopping of other timers in 3GPP after re-establishment is conclusive as to the issue of the stopping of the particular claimed Timer_MRW timer.

We also find unpersuasive Appellant's further contention that 3GPP only discloses the *starting* of the Timer_MRW timer based on transmission status, not *stopping* the Timer_MRW timer (Reply Br. 3). There is no dispute that 3GPP does not explicitly disclose stopping the Timer_MRW timer after re-establishment; however, the issue before us is one of obviousness, not anticipation.

For the above reasons, the Examiner's 35 U.S.C. § 103(a) rejection of independent claim 1 is sustained.

CONCLUSION OF LAW

Based on the analysis above, we conclude that the Examiner did not err in rejecting claim 1 for obviousness under 35 U.S.C. § 103(a).

DECISION

We affirm the Examiner's decision rejecting claims 1 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) (2010).

AFFIRMED

babc