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.
11/268,101	11/07/2005	Sebnem Z. Ozer	MESH122	5735

22917 7590 02/04/2013
MOTOROLA SOLUTIONS, INC.
IP Law Docketing
1301 EAST ALGONQUIN ROAD
IL02 5th Floor - SH5
SCHAUMBURG, IL 60196

EXAMINER
VIANA DI PRISCO, GERMAN

ART UNIT	PAPER NUMBER
2642	

NOTIFICATION DATE	DELIVERY MODE
02/04/2013	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):

USAdocketing@motorolasolutions.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SEBNEM Z. OZER, SAMER HANNA, KEITH J. GOLDBERG, and WILLIAM VANN HASTY, JR.

Appeal 2010-008952
Application 11/268,101
Technology Center 2600

Before MAHSHID D. SAADAT, TREVOR M. JEFFERSON, and JOHN A. EVANS, *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1, 2, 4, 5, 7-9, and 21-29, which constitute all the claims pending in this application as claims 1, 3, 6, and 10-20 have been cancelled. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

STATEMENT OF THE CASE

Introduction

Appellants' invention relates to a method and system for dynamically selecting frequencies in a multihopping wireless communication network (*see* Spec. ¶ [0002]).

Independent claim 21, reproduced below, is representative of the subject matter on appeal.

> 21. A method for channel selection by at least one node in a wireless communication network comprising:
>
> scanning a plurality of available multihop channels by the node;
>
> receiving a plurality of channel messages, wherein the plurality of channel messages correspond to the plurality of available multihop channels;
>
> processing a scan summary based on the plurality of channel messages received to determine that at least one intelligent access point is detected, wherein the scan summary includes a channel metrics value and a number of hops value; and
>
> selecting a multihop channel to the detected intelligent access point from the plurality of available multihop channels having a best route metric, wherein the best route metric is determined based on the channel metrics value and the number of hops value.

Rejections on Appeal

Claims 2, 4, 7, 21, 25, and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chow (US 2008/0069029 A1) and Cho (US 2005/0157661 A1). (*See* Ans. 3-7).

Claims 5 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chow, Cho, and Tejaswini (US 2005/0071476 A1). (*See* Ans. 7-8).

Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Chow, Cho, and Kossi (US 6,912,204 B2). (*See* Ans. 8-9).

Claims 22, 23, 26, and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chow, Cho, and Yeh (US 2005/0135422 A1). (*See* Ans. 9-10).

Claims 24 and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chow, Cho, Yeh, and Gupta (US 2005/0266880 A1). (*See* Ans. 10).

ANALYSIS

In rejecting claim 21 over the combination of Chow and Cho, the Examiner finds that Chow discloses all the claimed features except for "a number of hops value" for which the Examiner further relies on Cho (*see* Ans. 4-5).

Appellants argue that, in contrast with the claimed "scanning a plurality of available multihop channels . . . and selecting a multihop channel to the detected intelligent access point . . . from the plurality of available multihop channels," the channel between a mesh node and the neighbor

node in the mesh network of Chow is a single hop channel (App. Br. 8). Appellants specifically point out that because Chow establishes a link only with a neighboring node, the link is established via a single hop channel even if the neighboring node is a boundary node (*id.*). Appellants further contend that no disclosure or suggestion in Chow meets the claimed steps of processing a scan summary and selecting a multihop channel based on the channel metrics and the number of hops value because Chow's mesh node is interested in only establishing a link with a neighboring node (App. Br. 9-10). Additionally, Appellants argue that while describing a HELLO message including information on the number of hops, Cho includes no disclosure related to selecting a channel based on the number of hops value (App. Br. 10; Reply Br. 7-8).

We agree with Appellants' contentions above. Contrary to the Examiner's position in response to Appellants' arguments (Ans. 11), while paragraph 3 of Chow discloses a mesh network as "a group of interworked communications nodes that cooperate to forward packets through the network without the influence from a centralized control entity," nowhere in the reference is a multihop channel discussed. The Examiner also takes the position that Chow's provisional application mentions considering the number of hops from a boundary node when suitability of a neighboring node is assessed (Ans. 11). However, as stated by Appellants (Reply Br. 7), the cited provisional application was not publicly available at the time of filing Appellants' application and cannot be used as prior art.

CONCLUSION

On the record before us, we find that the Examiner erred in rejecting claim 21, as well as independent claims 25 and 29 which recite similar limitations, over the combination of Chow and Cho. Therefore, since the Examiner has not identified any teachings in the other references further applied in rejecting the dependent claims that would have overcome the deficiencies discussed above with respect to claim 21, the 35 U.S.C. § 103 rejections of claims 1, 2, 4, 5, 7-9, and 21-29 cannot be sustained.

DECISION

The Examiner's decision rejecting claims 1, 2, 4, 5, 7-9, and 21-29 is reversed.

REVERSED

dw