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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/227,534	09/14/2005	Woo-Sic Han	P2488US00	6945
58027	7590	03/15/2013	EXAMINER	
H.C. PARK & ASSOCIATES, P.L.C. 1894 PRESTON WHITE DRIVE RESTON, VA 20191			EDOUARD, PATRICK NESTOR	
			ART UNIT	PAPER NUMBER
			2644	
			NOTIFICATION DATE	DELIVERY MODE
			03/15/2013	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte WOO-SIC HAN

Appeal 2011-002699
Application 11/227,534
Technology Center 2600

Before JOSEPH F. RUGGIERO, CAROLYN D. THOMAS, and
ELENI MANTIS MERCADER, *Administrative Patent Judges*.

MANTIS MERCADER, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from a final rejection of claims 1 and 3-17. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

THE INVENTION

Appellant's claimed invention is directed to activating a Code Division Multiple Access (CDMA) modem when a request for a change of system connection is received from a Wideband Code Division Multiple Access (WCDMA) system during a packet data call through the WCDMA system. Abstract.

Independent claim 1, reproduced below, is representative of the subject matter on appeal.

1. A method of successively receiving packet data service in a dual-mode mobile communication terminal available for a Wideband Code Division Multiple Access (WCDMA) network and a Code Division Multiple Access (CDMA) network, comprising the steps of:
 - (1) activating a CDMA modem when a request for a change of system connection is received from a WCDMA system during a packet data call through the WCDMA system;
 - (2) storing information about the packet data call through the WCDMA system;
 - (3) releasing all call resources assigned to the WCDMA system;
 - (4) originating a data call to a CDMA system using the information stored at the step (2);and
 - (5) resuming the packet data call when the dual-mode mobile communication terminal connects to the CDMA system, wherein the step (1) further comprises:
 - (1-1) transmitting information about an intensity of a WCDMA signal to the WCDMA system.

REFERENCES and REJECTION

The Examiner rejected claims 1 and 3-17 under 35 U.S.C. § 103(a) as being unpatentable over Moon (US Pat. Application 2005/0037757 A1) and Ovesjo (US Pat. Application 2002/0160785 A1 and further in view of Bossoli (US Pat. Application 2004/0233866 A1).

ISSUE

The issue is whether the Examiner erred in finding that the combination of Moon, Ovesjo and Bossoli teaches the limitation of “(1) activating a CDMA modem when a request for a change of system connection is received from a WCDMA system during a packet data call through the WCDMA system” as recited in claim 1.

PRINCIPLE OF LAW

The claims, of course, do not stand alone. Rather, they are part of “a fully integrated written instrument,” consisting principally of a specification that concludes with the claims. For that reason, claims “must be read in view of the specification, of which they are a part.” . . . [T]he specification “is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a disputed term.”

Phillips v. AWH Corp., 415 F.3d 1303, 1315 (Fed. Cir. 2005) (citations omitted).

ANALYSIS

Claim 1 requires “activating a CDMA modem when a request for a change of system connection is received from a WCDMA system during a packet data call through the WCDMA system.” Appellant first argues that it

is terminal 100 that sends a channel assignment request signal in the SMS message to the UMTS network 200 when moving to the CDMA 1x network 400 (App. Br. 9). In other words, Appellant argues that it is the Dual-Mode Terminal 100 that notifies the network rather than the WCDMA network (i.e., UMTS network 200 in Moon's Figure 6) as required by claim 1.

We do not agree with Appellant's argument. The Examiner (Ans. 11) relies on step 230 as being the activation step and as such it is the WCDMA network (i.e., UMTS network 200) that sends a request for change of system connection as shown in step 220 (i.e., S220 in Figure 6) causing the activation at step 230.

Appellant further argues that as shown in Moon's Figure 6, the CDMA 1x signal strength is measured at step S150, which occurs before the SMS message with channel assignment information is received from a WCDMA system in block S230 (App. Br. 9).

We do not agree with Appellant's argument. The Specification is the single best guide to the meaning of a disputed term. *See Phillips* at 1315. Accordingly, we turn to Appellant's Specification to ascertain the meaning of term "activating" as recited in claim 1. Appellant's Figure 3 shows that the CDMA is activated at step 309, before the CDMA system connection at step 315 and the packet data service at step 317 (*see* Figure 3). We further note that Appellant's Figure 4 shows CDMA modem activation at step 411, entering idle state at step 417, and origination of data call at step 425 after the receipt of the system connection request at step 423 (*see* Figure 4). Appellant's Specification explicitly states, "[w]hen the CDMA modem is *activated*, the dual-mode mobile communication terminal *connects to a CDMA system using the information about the connection to the WCDMA*

system stored at step 309 and originates a call for packet data service at step 315” (Spec. 7:17-20)(emphasis added.). Thus, it appears that based on Appellant’s Specification which includes the Figures, even though activation is identified in Figure 3 as occurring *earlier* at step 309, the explicit definition in the Specification (Spec. 7:17-20) describes activation as when the connection to the CDMA occurs using the information received from the WCDMA system and originating a call for data packet at steps 315 and 317 of Figure 3. In other words, the CDMA activation may occur at an earlier step (*see* Figures 3, step 309), but activation, as claimed, does not occur until the receipt of the message from the WCDMA system and the origination of the data call at steps 315 and 317.

Thus, we find no error in the Examiner’s interpretation of the term “activating” where a signal strength measurement occurs at step S150 which would imply an earlier activation of the CDMA modem, but with the activation, meeting the claimed language, occurring at step S230. That is, at S230 the SMS message with channel assignment information is received from the WCDMA network causing data restoration at step S240 (*see* Ans. 11-12; Moon’s Figure 6; and ¶ [0071]). Thus, the Examiner broadly but reasonably interpreted the term “activating” consistent with the meaning as disclosed in Appellant’s Specification.

Accordingly, we affirm the Examiner’s rejection of claim 1. We also affirm the Examiner’s rejections of claims 3-17 for the same reasons.

CONCLUSION

The Examiner did not err in finding that the combination of Moon, Ovesjo and Bossoli teaches the limitation of “(1) activating a CDMA

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modem when a request for a change of system connection is received from a WCDMA system during a packet data call through the WCDMA system” as recited in claim 1.

DECISION

The Examiner’s decision rejecting claims 1 and 3-17 is affirmed.

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).

AFFIRMED

gvw