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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte UWE STADELMANN, FEI LUO,
MICHAEL NEUWERT, and MICHAEL ESCH

Appeal 2015-005380
Application 12/534,145
Technology Center 2600

Before JUSTIN BUSCH, NATHAN A. ENGELS, and
NORMAN H. BEAMER, *Administrative Patent Judges*.

ENGELS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–22. No other claims are pending. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

ILLUSTRATIVE CLAIMS

Appellants' Specification states that in the Global System for Mobile Communications, mobile stations regularly receive messages containing Broadcast Control channel (BCCH) frequencies in the form of a list of available BCCH channel frequencies, called a BCCH Allocation list ("BA list"). Spec. ¶¶ 1–2. Conventionally, each time a mobile station receives a BA list, the mobile station replaces any and all BCCH channel frequencies stored in the mobile station with the BCCH channel frequencies received in the most recent BA list. Spec. ¶ 3.

Instead of replacing all BCCH channel frequencies, Appellants' invention relates to retaining and reusing BCCH channel frequencies stored in the mobile device when a BCCH channel frequency in the most recent BA list matches a BCCH channel frequency already stored in the mobile station. *See, e.g.*, Spec. ¶¶ 28, 30. Claims 1, 9, 15, and 20, reproduced below, are illustrative of the claimed subject matter:

1. A method, comprising:
 - storing in storage a first frequency associated with a first cell;
 - receiving a second frequency associated with a second cell;
 - determining that one or more frequencies associated with a list of frequencies is not stored in the storage; and
 - maintaining the first frequency associated with the first cell in the storage after receiving the second frequency associated with the second cell, the maintaining act executed based on the determining that one or more frequencies associated with a list of frequencies is not stored in the storage.

9. A method, comprising:
 - receiving a first Broadcast Control Channel (BCCH) Allocation list (BA-list) including at least one frequency associated with a cell;

resolving that the BA-list is incomplete;
storing in storage the at least one frequency associated with the cell in a list allocated to store frequencies; and
maintaining any other frequencies in the list after the storing of the at least one frequency associated with the cell in the list.

15. An apparatus, comprising:
a processor coupled to a storage, the processor enabled to execute computer-executable instructions stored in the storage, the computer-executable instructions including:
a radio resource layer (RR layer) module to receive at least one frequency associated with a cell and generate a flag to be associated with the at least one frequency associated with the cell; and
a layer module to receive the at least one frequency associated with the cell and the flag associated with the at least one frequency.

20. A method, comprising:
receiving from a first layer module being associated with computer executable instructions stored in a storage measurement information related to a first cell and second cell; and
selecting measurement information from the measurement information related to a first cell and second cell to send to a network entity, the selected measurement information based on a current Broadcast Control Channel (BCCH) Allocation list (BA-list).

THE REJECTIONS

Claims 15–22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Noerpel et al. (US 2003/0045241 A1; Mar. 6, 2003).

Claims 1, 3, 4, 8–11, and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Babovic (US 2005/0239471 A1; Oct. 27, 2005) and Doi (US 6,332,078 B1; Dec. 18, 2001).

Claims 2, 5–7, 12, and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Babovic, Doi, and Hurst (US 2006/0240829 A1; Oct. 26, 2006).

ANALYSIS

Claim 1

Appellants contend the combination of Babovic and Doi does not teach or suggest the “determining” limitation of claim 1. Br. 9. The Examiner cites Doi for that limitation. Final Act. 10–11. Specifically, the Examiner cites Doi’s disclosures regarding a mobile device’s initial “scan list” that includes all possible frequencies and finds Doi teaches determining whether a channel frequency is stored in memory as part of its channel-selection process. Final Act. 11; Ans. 3 (paraphrasing Doi as disclosing “[i]f it is determined that a channel frequency is not stored in list memory then it may be deleted”) (citing Doi col. 10, ll. 6–12).

Appellants argue Doi teaches a process through which a mobile device selects a channel frequency for transmission and deletes from memory each channel that is not selected. Br. 9–10 (citing Doi Figs. 9, 10, col. 10, ll. 6–12). According to Appellants, Doi’s process does not include or require determining that one or more frequencies is not stored in storage, as claimed—Doi merely teaches deleting a channel frequency each time it is not selected. Br. 10–11.

Having reviewed the Examiner’s rejection in light of Appellants’ arguments and the evidence of record, we find the Examiner’s rejection does not adequately explain how or why a person of ordinary skill would combine the channel selection and deletion process taught in Doi with the teachings of Babovic to arrive at the invention of claim 1. The cited portion of Doi

describes sequentially deleting channel frequencies for which a “signal intensity detection result” is not higher than a certain threshold until, “[e]ventually, the channel frequencies stored in the list memory 65 are deleted without setting the channel.” Doi col. 10, ll. 8–10; *cf.* Doi col. 8, ll. 6–9 (“channel frequencies of which the signal intensity detection results are 50 [dB μ m] or higher are selected, and the channel frequencies and the signal intensities are transferred to the list memory”). In that case, “if it is determined” that no channel frequencies exist in the list memory (e.g., no channel frequencies were selected and all channel frequencies were deleted), the process can be repeated to compare a signal intensity detection result against a lower threshold. Doi col. 10, ll. 10–62. In other words, the cited portions of Doi only teach “determining” that a channel frequency is not stored in a list memory in the context of determining that all of the channel frequencies have been deleted. Without further evidence or explanation, we do not agree with the Examiner that Doi teaches or suggests the determining limitation of claim 1, and we therefore do not sustain the rejection of claim 1, nor the rejections of 2–8, which depend from claim 1.

Claim 9

Appellants contend the Examiner erred in finding Babovic teaches “resolving that the BA-list is incomplete,” as recited in claim 9. Br. 9. Appellants acknowledge Babovic teaches a procedure to add a BCCH to a mobile station’s neighbor cell list, but Appellants argue Babovic does not disclose that the BSS first determines (i.e., resolves) that the list does not already include the frequency of the BCCH before it is sent. Br. 11–12. According to Appellants, it is possible in the disclosure of Babovic that the frequency of the BCCH is already in the mobile station’s cell list. Br. 12.

The Examiner finds, and we agree, that Babovic’s disclosures regarding “updating” a mobile station’s neighbor cell list (“Active BA-list”) teach or suggest the disputed limitation. *See* Final Act. 12–13 (citing Babovic Fig. 4, ¶¶ 15, 18); Ans. 4–5. Babovic’s Figure 4 and related descriptions describe a handover process that includes adding the BCCH of a mobile station’s serving cell to the mobile station’s neighbor cell list when the mobile station reaches a border between two neighboring cells. Babovic ¶¶ 14–15, 18. Babovic teaches that, when a mobile station reaches a planned border, a base station system sends instructions to the mobile station to add the frequency of the serving cell BCCH to the mobile station’s neighbor cell list, causing the mobile station to measure signal strengths of the active traffic channel, the serving cell BCCH, and the neighboring BCCHs. Babovic ¶¶ 15, 18.

Contrary to Appellants’ arguments, considering the plain language of claim 9 read in light of Appellants’ Specification, we agree with the Examiner that a person of ordinary skill would understand Babovic’s disclosures of “adding” the service cell BCCH to the neighbor cell list to “update” the neighbor cell list to teach or suggest resolving that the BA list (the neighbor cell list) is incomplete as claimed. *See* Spec. ¶¶ 21–24 (describing messaging sent to a mobile station instructing it to store frequencies from a BA-list). Appellants identify no evidence of record that would require an interpretation of the “resolving” limitation of claim 9 to exclude Babovic’s teachings. *Cf.* Br. 5 (identifying Spec. ¶ 21 as written description support for the resolving step). Accordingly, we sustain the rejection of independent claim 9, as well as dependent claims 10, 11, 12, and 14, which depended from claim 9 and are not argued separately.

Claim 13

Claim 13 depends from claim 9 and further recites “receiving a network message that indicates that the BA-list is complete.” The Examiner cites Babovic’s disclosures of messages sent to a mobile station instructing it to stop measuring signal strength (Final Act. 14 (citing Babovic ¶ 15)), but we agree with Appellants that Babovic discloses that such instructions are sent following expiration of a predefined period of time, not with an indication that the BA-list is complete (*see* Br. 12). Indeed, Babovic provides that a mobile station will measure signal strength until the time period expires and it receives instructions to stop, but we do not agree with the Examiner that the cited disclosures teach or suggest receipt of a message indicating that the BA list is complete. *See* Babovic ¶ 15 (“Collection of the signal strength measurements continues until the predefined time period expires at step 34. . . . Thereafter, in step 34, the BSS instructs all active MSs to stop measuring signal strength of the service cell BCCH. The collection of measurements is then complete.”). Accordingly, we do not sustain the Examiner’s rejection of claim 13.

Claim 15

Appellants argue the Examiner erred in finding Noerpel anticipates claim 15. Specifically, Appellants argue Noerpel fails to disclose “a radio resource layer (RR layer) module to receive at least one frequency associated with a cell and generate a flag to be associated with the at least one frequency associated with the cell,” and/or “a layer module to receive the at least one frequency associated with the cell and the flag associated with the at least one frequency,” as required by claim 15. Br. 14.

The Examiner cites Noerpel's disclosures relating to a "cell bar access flag" as disclosures of those limitations (Final Act. 6–7 (citing Noerpel ¶¶ 30, 39, 75); Ans. 5–6 (citing Noerpel ¶¶ 30, 39, 71, 73–75)), but we agree with Appellants that Noerpel does not disclose a RR-layer module that *generates* the flag. Noerpel states that the RR layer of the access terminal *receives* system information that includes a cell bar access flag transmitted in the A-BCCH from a gateway (Noerpel Fig. 6, ¶ 71), but we do not agree with the Examiner that Noerpel discloses an RR layer that generates a cell bar access flag (*cf.* Ans. 6 ("As disclosed above and [c]ited by Noerpel in [0075], the BCCH signal may include a Cell Bar Flag.")). Accordingly, we do not sustain the Examiner's anticipation rejection of independent claim 15, nor the rejections of dependent claims 16–19, which depend from claim 15.

Claim 20

Appellants argue the Examiner erred in finding Noerpel anticipates claim 20. Br. 14–15. Specifically, Appellants contend Noerpel fails to disclose "selecting measurement information from the measurement information related to a first cell and second cell to send to a network entity, the selected measurement information based on a current Broadcast Control Channel (BCCH) Allocation list (BA-list)," as claimed. Br. 14. (Emphasis omitted).

The Examiner finds Noerpel discloses the disputed limitation with its cell selection process in which cells with adequate power are identified. Ans. 7 (citing Noerpel ¶¶ 39–40). Appellants argue, and we agree, Noerpel discloses that its RR layer only identifies cells that have adequate power and does not send measurement information to a network entity based on a current BA list, as claimed. Br. 14–15. Noerpel states that it identifies all

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cells that have adequate power and generates an available BCCH list and a list of available public land mobile networks, but the Examiner has not shown that Noerpel discloses sending measurement information to a network entity as claimed. Accordingly, we do not sustain the anticipation rejection of claim 20, nor the rejections of dependent claims 21 and 22, which depend from claim 20.

DECISION

For the above reasons, we affirm the Examiner's rejections of claims 9–12 and 14. We reverse the Examiner's rejections of claims 1–8, 13, and 15–22.

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

AFFIRMED-IN-PART