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VERIZON PATENT MANAGEMENT GROUP 1320 North Court House Road 9th Floor ARLINGTON, VA 22201-2909			CHOUDHRY, SAMINA F	
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* ASHRAF YUSSOUFF,  
DANILO PUSELJIC, and KANTI S. PATEL<sup>1</sup>

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Appeal 2015-005447  
Application 12/951,890  
Technology Center 2400

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Before DANIEL N. FISHMAN, SHARON FENICK, and  
MICHAEL M. BARRY, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1–5, 8, 9, 11–18, and 20–24, which constitute all pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

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<sup>1</sup> Appellants identify as the real party in interest Verizon Communications Inc. and its subsidiary companies. (App. Br. 3.)

*Introduction*

Appellants explain that typical cellular network services charge for long distance calls “at a much higher per-minute cost than the per-minute cost applied to regular calls within the subscriber’s calling plan” (Spec ¶ 1), and that subscribers may prefer “a network service that permits [a] mobile device to connect calls through [a VoIP (Voice over IP)] network at less expensive rates th[a]n would normally be incurred” (Spec ¶ 22 (reference numbers omitted)). Claim 1 is representative:

1. A method comprising:

receiving, at a first network device, a Voice over Internet Protocol (VoIP) service activation request associated with a customer requesting activation of a VoIP network service for a plurality of subscribers, wherein the service activation request identifies types of mobile devices associated with the plurality of subscribers;

identifying, by the first network device, one or more second network devices based on the types of mobile devices associated with the plurality of subscribers; and

sending, based on the received VoIP service activation request, a subscriber activation request from the first network device to the one or more second network devices that each stores a mobile application, to cause the one or more second network devices to attempt to upload the mobile application to mobile devices associated with the plurality of subscribers,

*wherein the mobile application includes functionality for identifying, upon initiation of a call from a mobile device of the mobile devices associated with the plurality of subscribers, a local access number for connecting a local access call through a local access point of a mobile network operator (MNO) network to a VoIP network that establishes the call to a call destination using VoIP.*

(App. Br. 27 (Claims App’x) (dispositive requirement emphasized).)

*Rejections<sup>2</sup>*

Claims 1–5, 15–18, 21, and 24 stand rejected under 35 U.S.C. § 103(a) as obvious over Poczo (US 2007/0072605 A1; Mar. 29, 2007), Siu et al. (US 2010/0311391 A1; Dec. 9, 2010), and Larsson et al. (US 2006/0268838 A1; Nov. 30, 2006). (Final Act. 4–14.)

Claims 8 and 20 stand rejected as obvious over Poczo, Siu, Larsson, and Reed et al. (US 2009/0249076 A1; Oct. 1, 2009). (Final Act. 14–15.)

Claims 9, 12–14, 22, and 23 stand rejected as obvious over Storey (US 2007/0250711 A1; Oct. 25, 2007), Mehta et al. (US 2002/0131404 A1; Sept. 19, 2002), and Larsson. (Final Act. 15–20.)

Claim 11 stands rejected as obvious over Storey, Mehta, Larsson, and Reed. (Final Act. 20–21.)

ANALYSIS

The Examiner relies on Larsson for teaching or suggesting the dispositive requirement of claim 1. (Final Act. 6–7 (citing Larsson ¶¶ 19–21, 24, 38, 49, 51).) Appellants argue the Examiner errs because Larsson “merely discloses that the third party VoIP [application] sends application data to a third party server over the Internet,” which fails to “disclose or suggest that the third party VoIP application includes functionality for identifying a local access number for connecting a local access call through a local access point of [an MNO] network to a VoIP network that establishes the call to a call destination using VoIP.” (App. Br. 14). The Examiner

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<sup>2</sup> We note the Examiner rejected claims 13–17 under 35 U.S.C. § 101 as directed to non-statutory subject matter (Final Act. 12) but then withdrew the rejection (Ans. 2).

answers by pointing to Larsson figures 1 and 8 and paragraphs 20, 49, and 50 as teaching the disputed limitation. (*Id.* 8–9.)

As discussed in Larsson’s background section, Figure 1 is a block diagram showing a mobile device connecting a call from a mobile “radio access” network to a third-party VoIP service and thereby “obtaining higher quality radio access bearer service but not having to pay for it” (¶ 26), which Larsson explains entails “send[ing] a QoS [Quality of Service] request that includes an access point name (APN) to be used” (¶ 20). Larsson’s Figure 8, which is part of a “solution that overcomes these problems [described with respect to Figure 1]” (¶ 22), “is a diagram illustrating non-limiting example signaling between various GPRS/EDGE [General Packet Radio Service/Enhanced Data rates for Global Evolution] nodes” (¶ 33), which Larsson explains entails “an ‘attach’ procedure by transmitting an Attach Request message that provides among other things its IMSI [International Mobile Subscriber Identity] (or other suitable identifier) to the SGSN [Serving GPRS Support Node]” (¶ 49) and then, “[w]hen a mobile station wants to start a VoIP session, it sends an Activate PDP [Packet Data Protocol] Context Request message to the SGSN (¶ 51).

Certainly Larsson teaches connecting wireless calls through an access point to a VoIP network. Claim 1’s dispositive requirement, however, is more specific. We agree with Appellants that the relied-upon portions of Larsson are silent as to how or whether a mobile application identifies a local access number for connecting a local access call through an MNO’s local access point as recited. While the Examiner maps the above-mentioned disclosure to the disputed limitation, there is no explanation for *how* and/or *why* Larsson’s above-discussed disclosure of connecting a

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wireless call to a VoIP network teaches or suggests the recited “local” features of the dispositive limitation.

We note, in an *ex parte* appeal, the Board “is basically a board of review—we review . . . rejections made by patent examiners.” *Ex parte Gambogi*, 62 USPQ2d 1209, 1211 (BPAI 2001). “The review authorized by 35 U.S.C. Section 134 is not a process whereby the examiner . . . invite[s] the [B]oard to examine the application and resolve patentability in the first instance.” *Ex parte Braeken*, 54 USPQ2d 1110, 1112 (BPAI 1999). The Board’s primary role is to make our decision based on the findings and conclusions presented by the Examiner. *See* 37 C.F.R. § 41.50(a)(1). We express no opinion as to the validity of the pending claims in view of additional explanation and/or references, and we leave any such further consideration to the Examiner. Although the Board has authority to reject claims under 37 C.F.R. § 41.50(b), no inference should be drawn when the Board elects not to do so. *See Manual of Patent Examining Procedure* (MPEP) § 1213.02.

On the record before us, we do not sustain the rejection of claim 1, nor do we sustain the rejection of the other independent claims, 9 and 15, each of which include a commensurate version of the disputed limitation, nor do we sustain the rejection of the dependent claims, 2–5, 8, 11–14, 16–18, and 20–24.

#### DECISION

For the above reasons, we reverse the Examiner’s rejection of claims 1–5, 8, 9, 11–18, and 20–24.

REVERSED