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13/523,521	06/14/2012	Jialin Zou	29250-002617/US	3905
30594	7590	10/31/2016	EXAMINER	
HARNESSE, DICKEY & PIERCE, P.L.C. P.O. BOX 8910 RESTON, VA 20195			PATEL, DHARMESH J	
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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* JIALIN ZOU and SUBRAMANIAN VASUDEVAN

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Appeal 2015-006475  
Application 13/523,521  
Technology Center 2400

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Before ERIC S. FRAHM, NORMAN H. BEAMER,  
and MATTHEW J. McNEILL, *Administrative Patent Judges*.

BEAMER, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–27.<sup>1</sup> We have jurisdiction over the pending rejected claims under 35 U.S.C. § 6(b).

We reverse.

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<sup>1</sup> Appellants identify Alcatel Lucent as the real party in interest. (App. Br. 2.)

## THE INVENTION

Appellants' disclosed and claimed invention is directed to offloading communications of a base station via direct communications between user equipments. (Abstract.) Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method for offloading communications of a first base station, the method comprising:
  - determining that a first user equipment (UE) and a second UE are candidates for direct communications;
  - notifying the first UE and the second UE that the first UE and the second UE are candidates for direct communications based on the determining;
  - receiving a report that the first UE and the second UE are able to engage in direct communications with each other; and
  - allocating at least one block of an uplink channel to direct communications between the first UE and the second UE.

## REJECTIONS

The Examiner rejected claims 1–11, 14, and 15–25 under 35 U.S.C. § 103(a) as being unpatentable over Wellig et al. (WO Pub. 01/15387 A1, pub. Mar. 1, 2001) and Vedrine (US 6,707,808 B1, issued Mar. 16, 2004). (Final Act. 3–15.)

The Examiner rejected claims 12, 13, 26, and 27 under 35 U.S.C. § 103(a) as being unpatentable over Wellig, Vedrine, and Chiang (US 8,406,206 B2, issued Mar. 26, 2013). (Final Act. 16–24.)

## ISSUE ON APPEAL

Appellants' arguments in the Appeal Brief present the following dispositive issue:<sup>2</sup>

Whether the Examiner erred in finding the combination of Wellig and Vedrine teaches or suggests the independent claim 1 limitation, “allocating at least one block of an uplink channel to direct communications between the first UE and the second UE,” and the similar limitation recited in independent claims 12, 14, 15, and 26. (App. Br. 6–13, 20–21.)

## ANALYSIS

As the Examiner finds, Wellig does not teach or suggest the limitation at issue. (Final Act. 5.) The Examiner instead relies on Vedrine for this limitation: “Wellig does not explicitly disclose [sic] allocating at least one block of an uplink channel. However, these concepts are well known in the art as taught by Vedrine.” (Final Act. 5; *see also* Vedrine col. 3, ll. 17–23.)

Appellants argue the Examiner errs:

[T]he Examiner asserts that combining Wellig and Vedrine is obvious because the combination would result in fast access to radio channel for a real time user (Final Office Action, page 5) . . . . Furthermore, the Examiner did not identify how assigning an uplink block of an uplink channel to one of the mobile stations, as taught in Vedrine, would result in “fast access to radio channel for a real time user.” In the absence of such an indication, the Appellants submit that the combination of Wellig

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<sup>2</sup> Rather than reiterate the arguments of Appellants and the findings of the Examiner, we refer to the Appeal Brief (filed Nov. 24, 2014); the Reply Brief (filed Jun. 17, 2015); the Final Office Action (mailed May 14, 2014); and the Examiner's Answer (mailed May 1, 2015) for the respective details.

and Vedrine would **not** be obvious to the person of ordinary skill in the art.

(App. Br. 9.)

We are persuaded the Examiner errs. The Examiner does not explain how the general knowledge of allocating blocks of an uplink channel, which is the extent of the pertinent teaching of the Vedrine reference, teaches or suggests the subject matter of the limitation at issue, whether taken alone or in combination with Wellig. Therefore, on the record before us, we are constrained to find the Examiner errs in rejecting independent claims 1, 12, 14, 15, and 26.

#### CONCLUSIONS

For the reasons stated above, we do not sustain the obviousness rejections of claims 1, 12, 14, 15, and 26. We also do not sustain the obviousness rejections of claims 2–11, 13, 16–25, and 27, which claims depend from claims 1, 12, 15, or 26.

#### DECISION

We reverse the Examiner's rejections of claims 1–27.

REVERSED