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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DIRK KAMPMANN¹

Appeal 2015-007698
Application 13/126,013
Technology Center 2400

Before MICHAEL J. STRAUSS, BARBARA A. BENOIT, and
PHILLIP A. BENNETT, *Administrative Patent Judges*.

BENNETT, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 12–29, which are all of the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

¹ Appellant's Brief ("App. Br.") identifies the real party in interest as Telefonaktiebolaget LM Ericsson (publ). App. Br. 2.

CLAIMED SUBJECT MATTER

The claims are directed to switching point selection at call control node handover. Abstract. Claim 12, reproduced below with the disputed limitation emphasized, is illustrative of the claimed subject matter:

12. A method implemented by a first call control node for preparing a handover of a mobile entity related call from the first call control node to a second call control node, comprising:

detecting at the first call control node *identification information that identifies a switching point seized by the first call control node for said call*, and

assisting the second call control node to preferentially select the identified switching point as a switching point for said call, by transmitting to the second call control node a handover request message that contains said identification information.

App. Br. 13 (Claims Appendix).

REJECTIONS

Claims 12–29 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Vikberg et al. (US 2010/0255846 A1, published Oct. 7, 2010) (“Vikberg”).

ISSUE FOR DECISION

Does Vikberg disclose “identification information that identifies a switching point seized by the first call control node for said call” as recited in independent claim 12, and similarly recited in independent claims 16, 19, and 23?

ANALYSIS

The Examiner rejects all of the pending claims under 35 U.S.C. § 102(e) as being anticipated by Vikberg. In rejecting independent claims 12, 16, 19, and 23 as anticipated, the Examiner finds Vikberg discloses the

recited “identification information that identifies a switching point seized by the first call control node for said call.” Final Act. 7–8, 12; Ans. 8–11, 15–16. More specifically, the Examiner finds Vikberg’s target cell or target node is a switching point within the meaning of Appellant’s claims. Ans. 9 (citing Vikberg ¶ 23). The Examiner further finds the identity of the target cell is included in a handover request from a source mobile switching center (“MSC”), which is a type of call control node. *Id.*

Appellant disputes the Examiner’s findings. App. Br. 7–11. Appellant argues the Examiner has applied an unreasonably broad interpretation of the phrase “switching point.” *Id.* More specifically, Appellant argues the rejection relies on a mistaken assumption the terms “switching point,” “call control node,” and “media gateway” all have the same meaning. App. Br. 7. Appellant contends this overly broad interpretation arises from the Examiner’s failure to recognize the difference between a media gateway and a media gateway controller. App. Br. 8. Appellant submits “switching point” is properly understood to mean “a point in the core network that switches the user plane and that is a [sic] seized by a call control node for a call.” App. Br. 10 (citing Spec. 1, ll. 16–23; 7, ll. 3–20; 10, ll. 23–29).

We are persuaded by Appellant’s argument that the Examiner applies an unreasonably broad interpretation of “switching point.” The Examiner appears to take the position the second paragraph (p. 1, ll. 16–23) of the Specification accords the same meaning to each of the phrases “switching point,” “call control node,” and “media gateway.” *See* Ans. 3 (“Appellant in the specification [indicates] all three terms, Switching Point, Call Control Node, and Media Gateway have the same meaning . . .”). We disagree.

We find no support for this construction in the second paragraph of the Specification or elsewhere. We agree with Appellant’s argument (App. Br. 7–8) that the second paragraph (p. 1, ll.16–23) of the Specification explains that a call control node acts as a media gateway *controller*, and describes a mobile switching center as an example of media gateway *controller*. We further agree with Appellant’s contention that the Specification makes clear a call control node acting as a media gateway controller, such as an MSC for example, is not the same thing as the media gateway itself. *Id.* (citing Spec. 1, ll. 16–23; 2, ll. 1–16). We also agree with Appellant the Specification identifies a media gateway as an example of a switching point, and it repeatedly differentiates a call control node from a switching point. App. Br. 8. Accordingly, we adopt Appellant’s proposed construction² of “switching point” as “a point in the core network that switches the user plane and that is seized by a call control node for a call.”

Having construed “switching point” such that it is distinguishable over a control node, we are persuaded the Examiner erred in finding Vikberg discloses “identification information that identifies *a switching point* seized by the first call control node for said call.” In particular, Appellant argues, and we agree, Vikberg’s target cell cannot be a “switching point” because the target cell described in Vikberg does not switch the user plane, nor is a target cell seized by the first call control node for a call. App. Br. 10. The portions of Vikberg cited by the Examiner (¶¶ 22–24) describe the use of a handover routing router which is used in connection with a handover request from a source cell in a source MSC to a target cell in a target MSC. The

² In adopting this proposed construction we correct the typographical error that appeared in Appellant’s proposal.

target cell is identified by the handover routing router and its identity is provided to the target MSC. Vikberg ¶ 23. Vikberg provides no indication, however, that the target cell is ever seized by the source call control node.

Because we are persuaded Vikberg does not disclose “identification information that identifies a switching point seized by the first call control node for said call,” as recited in each of independent claims 12, 16, 19, and 23, we do not sustain their rejection under 35 U.S.C. § 102(e). For the same reason, we do not sustain the Examiner’s rejection of dependent claims 13–15, 17, 18, 20–22, and 24–29.³ Moreover, because we find one of Appellant’s arguments persuasive, we do not reach Appellant’s other arguments.

DECISION

The Examiner’s rejection of claims 12–29 is reversed.

REVERSED

³ We note that claims 26–29 appear to have an antecedent basis issue in that they each recite “wherein *a* switching point comprises a media gateway.” It appears the recited “*a* switching point” is intended to be the same switching point identified in the various independent claims. If so, Appellant may want to consider amending these claims to avoid any potential ambiguity.