UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/715,736	12/14/2012	Luis Villasenor	07-0029/US	8986

32681 7590 02/02/2017
PLANTRONICS, INC.
IP Department/Legal
345 ENCINAL STREET
P.O. BOX 635
SANTA CRUZ, CA 95060-0635

EXAMINER
ONAMUTI, GBEMILEKE J

ART UNIT	PAPER NUMBER
2463	

NOTIFICATION DATE	DELIVERY MODE
02/02/2017	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@plantronics.com
francois.devilliers@plantronics.com
neely.frazier@plantronics.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte LUIS VILLASENOR

Appeal 2015-007899
Application 13/715,736
Technology Center 2400

Before ELENI MANTIS MERCADER, CARL W. WHITEHEAD JR., and ADAM J. PYONIN, *Administrative Patent Judges*.

PYONIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–30, which constitute all the claims pending in this application. *See* App. Br. 1. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM-IN-PART.

STATEMENT OF THE CASE

Introduction

Appellant's disclosure relates to discovering "a plurality of Wi-Fi bases . . . , each Wi-Fi base associated with a wireless Wi-Fi device" in which "an operational parameter is configured responsive to [] Wi-Fi

channel utilization." Abstract. Claims 1, 12, and 23 are independent. Claims 1 and 12 are reproduced below for reference (with emphases added):

> 1. A method for operating a network of Wi-Fi bases comprising:
>
> *discovering a plurality of Wi-Fi bases, each Wi-Fi base associated with a wireless Wi-Fi device in a one-to-one relationship*;
>
> assigning each Wi-Fi base to a group of Wi-Fi bases, the plurality of Wi-Fi bases divided into two or more groups;
>
> selecting an operating Wi-Fi channel for each group of the two or more groups;
>
> evaluating a Wi-Fi channel utilization at a Wi-Fi base; and
>
> configuring an operational parameter at the Wi-Fi base responsive to the Wi-Fi channel utilization.
>
> 12. A system comprising:
>
> a plurality of Wi-Fi bases;
>
> *a plurality of wireless Wi-Fi devices, wherein each wireless Wi-Fi device is associated with a Wi-Fi base in a one-to-one relationship*; and
>
> a computing device operable to transmit a control message to the plurality of Wi-Fi bases.

References and Rejections

Claims 1, 4–7, 23–25, and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Osawa (US 6,035,208; Mar. 7, 2000) and Hamabe (US 5,613,200; Mar. 18, 1997). Final Act. 3.

Claims 2, 8–11, and 28–30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Osawa, Hamabe, and Sella (US 2011/0188291 A1; Aug. 4, 2011). Final Act. 10.

Claims 3 and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Osawa, Hamabe, and Soler Castany (US 7,782,269 B2; Aug. 24, 2010). Final Act. 14.

Claims 12–15 and 17–21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Osawa and Sella. Final Act. 16.

Claim 16 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Osawa, Sella, and Soler Castany. Final Act. 19.

ANALYSIS

We have reviewed the Examiner's rejections in light of Appellant's arguments the Examiner erred. We agree with Appellant's arguments regarding independent claims 1 and 23; however, we disagree with Appellant's arguments regarding independent claim 12 and adopt as our own the Examiner's corresponding findings and reasoning in the rejection of claim 12.

A. Independent Claims 1 and 23

Appellant argues the Examiner erred, because "[n]either Osawa nor Hamabe, either alone or in combination, teach a method for operating a network of *Wi-Fi bases* including discovering a plurality of *Wi-Fi bases* as required by claim 1." App. Br. 7. Appellant contends Osawa teaches cellular base stations as part of a cellular communications system, whereas "[t]he term 'Wi-Fi' is explicitly defined in Applicant's Specification: 'The term Wi-Fi as used herein refers generally to any wireless local area network products that are based on the Institute of Electrical and Electronics Engineers (IEEE) 802.11 standards.'" App. Br. 7, quoting Spec. ¶ 19; *see also* Osawa Fig. 1.

We are persuaded by Appellant that the Examiner erred in rejecting claim 1. The Examiner finds a broadly reasonable construction of the

claimed "Wi-Fi base" does not require the Wi-Fi network protocol, because Appellant's Specification describes a "Wi-Fi base 2 is operable as an access point (AP), which is coupled with a network" and "may also be able to support additional other wireless networking standards." Spec. ¶ 45; *see* Ans. 20–21. Appellant's Specification, however states the other wireless networking standards are additional to Wi-Fi; we find one skilled in the art, upon reading the Specification, would understand the *Wi-Fi* base of the Specification as being reliant upon the *Wi-Fi* networking standard. *See Id.*

We find the claimed "Wi-Fi" base requires Wi-Fi communications. In contrast, Osawa and Hamabe rely on cellular communications, not Wi-Fi. *See* App. Br. 7. Therefore, on the record before us, we find the Examiner has not presented a prima facie case of unpatentability of independent claim 1, or independent claim 23, which recites similar limitations. Accordingly, we do not sustain the Examiner's rejection of independent claims 1 and 23, or the claims dependent thereon.

B. Independent Claim 12

Appellant argues the Examiner erred, because "[n]either Osawa nor Sella, either alone or in combination, teach a system including a *plurality of Wi-Fi bases,* and *a plurality of wireless Wi-Fi devices, wherein each wireless Wi-Fi device is associated with a Wi-Fi base in a one-to-one relationship,* as required by claim 12." App. Br. 11–12. Regarding the Examiner's findings with respect to Osawa, Appellant contends that "[f]or the same reasons discussed above with respect to claim 1, which are not repeated here for purposes of conciseness, Applicant respectfully disagrees." App. Br. 12.

We are not persuaded the Examiner erred. Appellant does not argue the combination of Osawa and Sella fails to teach or suggest the claim, other than referring to the arguments with respect to claim 1. *See* App. Br. 11–12. The Examiner finds claim 12 is obvious over different references than cited for claim 1. *See* Final Act. 16. Particularly, the Examiner finds, and we agree, that "Sella discloses a computing device operable to transmit a control message to a Wi-Fi base." Final Act. 16–17 (citing Sella Figs. 2, 4, 8, and ¶ 75). Appellant does not contradict this finding and instead attacks Osawa individually. "[O]ne cannot show non-obviousness by attacking references individually where . . . the rejections are based on combinations of references." *In re Keller*, 642 F.2d 413, 426 (CCPA 1981). Thus, we are not persuaded the Examiner erred in finding the combination of Osawa and Sella teaches or suggests the limitations of claim 12.

Accordingly, we sustain the Examiner's rejection of independent claim 12 and the claims dependent thereon.

DECISION

We reverse the Examiner's rejections of claims 1–11 and 23–30.

We affirm the Examiner's rejections of claims 12–22.

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-IN-PART