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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte LARS DALSGAARD and JORMA KAIKKONEN

Appeal 2016-000339
Application 13/782,970¹
Technology Center 2400

Before JEFFREY S. SMITH, HUNG H. BUI, and
JOSEPH P. LENTIVECH, *Administrative Patent Judges*.

BUI, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants seek our review under 35 U.S.C. § 134(a) of the Examiner’s Final Office Action rejecting claims 1–17, which are all of the claims pending on appeal. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.²

¹ According to Appellants, the real party in interest is Nokia Corporation. App. Br. 2.

² Our Decision refers to Appellants’ Appeal Brief filed May 11, 2015 (“App. Br.”); Reply Brief filed September 29, 2015 (“Reply Br.”); Examiner’s Answer mailed July 29, 2015 (“Ans.”); Final Office Action mailed October 29, 2014 (“Final Act.”); and original Specification filed March 1, 2013 (“Spec.”).

STATEMENT OF THE CASE

Appellants' invention relates to “[m]ethods and apparatus . . . for wide bandwidth measurements.” Abstract.

Claims 1, 8, 15, and 16 are independent. Claim 1 is illustrative of Appellants' invention, as reproduced with disputed limitations emphasized below:

1. A method comprising:
receiving, at a user equipment, [1] *an indicator* and [2] *a measurement bandwidth*, wherein [1] *the indicator represents whether the user equipment is enabled to perform a wide bandwidth measurement*, and wherein [2] *the received measurement bandwidth represents a maximum allowed measurement bandwidth*; and
performing, by the user equipment, the wide bandwidth measurement, when the received measurement bandwidth equals or exceeds a threshold and the indicator represents a request to the user equipment to perform the wide bandwidth measurement.

App. Br. 15 (Claims App.) (brackets added).

Examiner's Rejection and Reference

Claims 1–17 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Han et al., US 2013/0094381 A1; pub. Apr. 18, 2013 (“Han”). Final Act. 4–9.

ANALYSIS

Independent claim 1 recites a user equipment (UE) to receive two components: (1) an “indicator” that “represents whether the user equipment is enabled to perform a wide bandwidth measurement,” and (2) a “measurement bandwidth” that “represents a maximum allowed

measurement bandwidth.” Claim 1 also requires the UE to perform “the wide bandwidth measurement” based on two conditions: (1) when the received measurement bandwidth equals or exceeds a threshold, and (2) the indicator represents a request to the user equipment to perform the wide bandwidth measurement.

Appellants acknowledge Han teaches a system and method for measurement bandwidth configuration including sending an allowed measurement bandwidth (“allowedMeasBandwidth”) parameter to a user equipment (UE) to specify the maximum bandwidth that the UE can use. App. Br. 10; Reply Br. 2. Appellants even acknowledge Han’s “AllowedMeasBandwidth” parameter corresponds to Appellants’ claimed “measurement bandwidth” used to represent “a maximum allowed measurement bandwidth” as recited in independent claim 1. However, Appellants argue Han’s single “AllowedMeasBandwidth” parameter is not and cannot be considered as both Appellants’ claimed (1) “measurement bandwidth” used to represent “a maximum allowed measurement bandwidth” and Appellants’ claimed (2) “indicator” used to represent “whether the user equipment is enabled to perform a wide bandwidth measurement,” as recited in claim 1. App. Br. 11–13; Reply Br. 6–7.

Likewise, Appellants argue Han’s system performs measurements as long as those measurements are below a received “AllowedMeasBandwidth” but does not require those measurements based on two conditions: (1) when “the received measurement bandwidth equals or exceeds a threshold,” and (2) when “the indicator represents a request to the user equipment to perform the wide bandwidth measurement,” as recited in claim 1. App. Br. 12–13; Reply Br. 7–8. According to Appellants, “because Han merely performs

measurements so long as they are below an allowed bandwidth, there would be no reason to modify Han to check whether ‘the received measurement bandwidth equals or exceeds a threshold,’ as required by claim 1.” App. Br. 12–13.

The Examiner responds that: (1) the claim recites a single step of receiving an “indicator” and “a measurement bandwidth” and, as such, “any use of the indicator throughout the claim language is explicitly tied to the measurement bandwidth”; (2) under the broadest reasonable interpretation, the claim does not require an “indicator” and a “measurement bandwidth” to be separate and distinct from each other; and (3) Han’s “AllowedMeasBandwidth” indicator can be both Appellants’ claimed “indicator” and “measurement bandwidth.” Ans. 2–4.

We disagree with the Examiner. During examination, claim terms are given their broadest reasonable interpretation consistent with the specification. *In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1369 (Fed. Cir. 2004). However, “the proper BRI construction is not just the broadest construction, but rather the broadest *reasonable* construction *in light of the specification.*” *In re Man Mach. Interface Techs. LLC*, 822 F.3d 1282, 1287 (Fed. Cir. 2016), citing *Microsoft Corp. v. Proxyconn, Inc.*, 789 F.3d 1292, 1298 (Fed. Cir. 2015) (“A construction that is unreasonably broad and which does not reasonably reflect the plain language and disclosure will not pass muster.”)

As discussed *supra*, Appellants’ claim 1 expressly requires a user equipment (UE) to receive two components: (1) an “indicator” that “represents whether the user equipment is enabled to perform a wide

bandwidth measurement,” and (2) a “measurement bandwidth” that “represents a maximum allowed measurement bandwidth.”

Appellants’ Specification further describes:

a wideband measurement is only performed when at least two conditions are satisfied. First, the wideband measurement may be performed by the user equipment, when a bandwidth parameter, such as the “allowedMeasBandwidth” parameter, is greater than or equal to a certain threshold. Second, an indication bit or bits indicates whether the wideband measurement should be performed (for example, whether the user equipment is enabled to perform the wider bandwidth measurement). For example, the wideband measurement may be performed, when the “allowedMeasBandwidth” parameter is greater than or equal to a threshold (also referred to herein as a decision threshold) and an indication bit represents that the wideband measurement should be performed as well. However, the wideband measurement would not be performed (or needed at the user equipment), when the “allowedMeasBandwidth” parameter is greater than or equal to the threshold but the indication bit represents that the wideband measurement should not be performed. Nor would the wideband measurement be performed, when the “allowedMeasBandwidth” parameter is less than the threshold but the indication bit represents that the wideband measurement should be performed.

Spec. ¶ 15 (emphasis added).

According to Appellants’ Specification:

[i]n some example embodiment, the network may send to the user equipment the “allowedMeasBandwidth” parameter and the indication bit representative of whether the wideband measurement should be performed. In some example embodiments, the indication bit may comprise one or more bits. For example, when the indication bit has a value of “1” (or True), the wideband measurement would be performed, when the “allowedMeasBandwidth” parameter is greater than or equal to

the threshold. However, if the indication bit has a value “0” (or False), the wideband measurement would not need to be performed, regardless of the value of the “allowedMeasBandwidth” parameter. Nor would the wideband measurement need to be made, when the indication bit has a value of “1” (or True) but the “allowedMeasBandwidth” parameter is less than the threshold. The threshold used in connection with the “allowedMeasBandwidth” may be predefined or signaled by the network. For example, the threshold may be predefined as 10 MHz, although other thresholds may be used as well.

Spec. ¶ 16 (emphasis added).

In light of Appellants’ Specification, Appellants’ claimed “indicator” and “measurement bandwidth” are distinct and separate components and, as such, cannot be construed to encompass only Han’s “AllowedMeasBandwidth” indicator, as the Examiner reasons. Ans. 2–4 (citing Han ¶ 25).

Separately, we note Han describes sending an “AllowedMeasBandwidth” parameter “to migrating UEs that specifies the maximum allowed measurement bandwidth,” so that “each UE is free to select any measurement bandwidth that is equal to or smaller than the maximum measurement bandwidth specified by the Allowedmeasbandwidth parameter.” Han ¶ 18. However, Han also recognizes a problem with the conventional approach of sending such an “AllowedMeasBandwidth” parameter. Han ¶ 19. As such, Han proposes “a mechanism for mandating the measurement bandwidth used for RSSP/RSRQ estimation, which includes communicating a measurement bandwidth indicator (measbandwidth) indicator to the UE.” Han ¶ 20. According to Han:

the measbandwidth is distinguished from the Allowedmeasbandwidth parameter in that the measbandwidth mandates a specific measurement bandwidth that the UE must use during RSRP/RSRQ estimation, while the Allowedmeasbandwidth parameter merely establishes a maximum measurement bandwidth to use during RSRP/RSRQ estimation.

Han. ¶ 20.

In other words, Han proposes using a different type of measurement bandwidth indicator, i.e., a “measbandwidth” indicator to mandate a specific measurement bandwidth, for example, at 6, 15, 25, or 50 RBs (*see* Han ¶ 20), as opposed to the conventional approach of using an “Allowedmeasbandwidth” indicator to merely establish a maximum measurement bandwidth, for example, at 50 RBs (*see* Han ¶ 18). Both types of Han’s indicators, i.e., the “measbandwidth” indicator and the “Allowedmeasbandwidth” indicator, are used by the user equipment (UE) to perform the measurement bandwidth. However, neither the “measbandwidth” indicator nor the “Allowedmeasbandwidth” indicator as disclosed by Han is used to represent whether the user equipment (UE) is allowed to perform a wide bandwidth measurement in the manner recited by Appellants’ claim 1.

Anticipation under 35 U.S.C. § 102 is a question of fact. *Brown v. 3M*, 265 F.3d 1349, 1351 (Fed. Cir. 2001). A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). Because Han does not disclose sending an “indicator” that “represents whether the user equipment is enabled to perform a wide bandwidth measurement,” in

addition to a “measurement bandwidth” that “represents a maximum allowed measurement bandwidth,” Han does not require the user equipment (UE) to perform “the wide bandwidth measurement” based on two conditions: (1) when the received measurement bandwidth equals or exceeds a threshold, and (2) the indicator represents a request to the user equipment to perform the wide bandwidth measurement, as recited in claim 1.

For these reasons, we do not sustain the Examiner’s anticipation rejection of independent claim 1 and similarly, independent claims 8, 15, and 16 and their respective dependent claims 2–7, 9–14, and 17, which Appellants do not argue separately. App. Br. 13.

CONCLUSION

On the record before us, we conclude Appellants have demonstrated the Examiner erred in rejecting claims 1–17 under 35 U.S.C. § 102(e).

DECISION

As such, we REVERSE the Examiner’s final rejection of claims 1–17.

REVERSED