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EXAMINER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte TARKESH PANDE, KUMARAN VIJAYASANKAR,
RAMANUJA VEDANTHAM, and IL HAN KIM

Appeal 2016-001331
Application 13/859,705
Technology Center 2600

Before ALLEN R. MacDONALD, KARA L. SZPONDOWSKI, and
SHARON FENICK, *Administrative Patent Judges*.

MacDONALD, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1–22. Final Act. 1. We have jurisdiction under 35 U.S.C. § 6(b).

Exemplary Claim

Exemplary claim 1 under appeal reads as follows (emphasis added):

1. A method for supporting legacy nodes and a number of advanced nodes in a power line communication (PLC) network, comprising:

transmitting a set of common frames in a legacy mode to nodes in the PLC network, the legacy mode utilized by both the legacy nodes and the advanced nodes; and

transmitting the set of common frames in an advanced mode to the nodes in the PLC network to exploit the use of advanced features, ***wherein communication with the advanced nodes depends on the number of advance nodes.***

Rejections¹

The Examiner rejected claims 1, 2, 4, 5, 8, 9, 10, 12, and 13 under 35 U.S.C. § 103(a) as being unpatentable over Yaney et al. (US 2008/0056338 A1; published March 6, 2008).²

¹ Appellants argue a 35 U.S.C. § 102(b) rejection of claims 1, 2, 4, 5, 8, 9, 10, 12, and 13. As the Examiner correctly points out, “[t]he final office action mailed on 12/01/2014 does not include any rejections under 35 U.S.C. 102(b).” Ans. 12. Rather, these claims stand rejected under 35 U.S.C. § 103(a). Final Act. 2–5. To the extent possible, this Panel has treated Appellants’ arguments as being directed to the actual rejection under § 103(a).

² Separate patentability is not argued for claims 2, 4, 5, 8, 9, 10, 12, and 13. Except for our ultimate decision, these claims are not discussed further herein.

The Examiner rejected claims 3, 7, and 11 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Yaney and Kim et al. (US 2011/0043340 A1; published Feb 24, 2011).³

The Examiner rejected claim 6 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Yaney and Petranovich (US 8,644,341 B1; issued Feb 4, 2014).⁴

The Examiner rejected claims 14–22 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Yaney and Salokannel et al. (US 2005/0249173 A1; published Nov. 10, 2005).⁵

³ Separate patentability is not argued for claims 3, 7, and 11. Rather, Appellants address these claims by referencing the arguments for claim 1. App. Br. 15. Then, Appellants merely assert the cited prior art does not teach or render obvious the claim limitations. Without more, this fails to constitute a sufficient argument on the merits. *See* 37 C.F.R. § 41.37(c)(1)(iv); *In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011). Thus, the rejection of these claims turns on our decision as to claim 1. Except for our ultimate decision, these claims are not discussed further herein.

⁴ Separate patentability is not argued for claim 6. Rather, Appellants address this claim by referencing the arguments for claim 1. Br. 15. Appellants merely assert the cited prior art does not teach or render obvious the claim limitations. Without more, this fails to constitute a sufficient argument on the merits. *See* 37 C.F.R. § 41.37(c)(1)(iv); *Lovin*, 652 F.3d at 1357. Thus, the rejection of these claims turns on our decision as to claim 1. Except for our ultimate decision, this claim is not discussed further herein.

⁵ Although Appellants only reference claims 14–21 in their argument (App. Br. 14–15), we treat this as directed to claims 14–22. Separate patentability is not argued for claims 14–22. Rather, Appellants address these claims by referencing the arguments for claim 1. Br. 15. Appellants merely assert the cited prior art does not teach or render obvious the claim limitations. Without more, this fails to constitute a sufficient argument on the merits. *See* 37 C.F.R. § 41.37(c)(1)(iv); *Lovin*, 652 F.3d at 1357. Thus, the rejection

Appellants' Contentions

1. Appellants contend the Examiner erred in rejecting claim 1 under 35 U.S.C. § 103(a) because:

The embodiments of the Applicants are very specific that there are legacy nodes that only use differential modulation during initial communication. Thus, will only use differential modulation after the devices are synchronized and advanced nodes which, during initial communication, use coherent modulation and after, devices are synchronized, continue to use only coherent modulation.

App. Br. 12–13.

2. Appellants also contend the Examiner erred in rejecting claim 1 under 35 U.S.C. § 103(a) because Yaney does not expressly disclose that the communication depends on the number of advanced nodes.

[I]n the embodiments of the Applicants, advanced node communications is dependent on the number of advanced nodes.

App. Br. 13.

Issue on Appeal

Did the Examiner err in rejecting claim 1 as being obvious?

ANALYSIS

We have reviewed the Examiner's rejections in light of Appellants' arguments (Appeal Brief) that the Examiner has erred. We disagree with Appellants' conclusions. Except as noted below, we adopt as our own (1) the findings and reasons set forth by the Examiner in the action from

of these claims turns on our decision as to claim 1. Except for our ultimate decision, these claims are not discussed further herein.

which this appeal is taken and (2) the reasons set forth by the Examiner in the Examiner's Answer in response to Appellants' Appeal Brief. We concur with the conclusions reached by the Examiner. We highlight the following additional points.

As to Appellants' above contention 1, we disagree. Rather, we agree with the Examiner that the features upon which Appellants rely are not recited in claim 1. Ans. 14.

As to Appellants' above contention 2, we disagree for the reasons set forth by the Examiner. Final Act. 3 and Ans. 14.

Although not necessary for our decision, even if we were to agree with Appellants that Yaney was lacking, Appellants have admitted that it is known in the prior art for the communication with the nodes to depend on the number of nodes. For example, at paragraph 7 in the Background of the Specification, Appellants state that for power line communications (PLC), "Multi-Tone Mask (MTM) mode (or 'tone masking') refers to the use of multiple tone masks/sub-bands to enable nodes in the network to use individual tone masks within the band optimized for the local conditions on the network." Further, in describing the prior art superframe, at paragraph 49 of the Specification, Appellants state "the number of beacon slots 701 and CAP slots 702 is equal to the number of tone masks in the system. Each beacon slot 701 and CAP slot 702 is assigned for one tone mask." Lastly, as to the prior art superframe, at paragraph 50 of the Specification, Appellants state "[t]he number of beacon slots 701 and CAP slots 702 in the superframe 700 is kept equal to the number of tone masks in the system." Therefore, in the admitted prior art, the communication with the nodes (i.e., the format of the superframe) depends on the number of nodes.

CONCLUSIONS

- (1) The Examiner has not erred in rejecting claims 1–22 as being unpatentable under 35 U.S.C. § 103(a).
- (2) Claims 1–22 are not patentable.

DECISION

The Examiner’s rejections of claims 1–22 are affirmed.

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