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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte CHIU NGOK ERIC WONG, RON PORAT, NIHAR JINDAL, MATTHEW JAMES FISCHER, and VINKO ERCEG[1]

Appeal 2017-007286
Application 14/296,733
Technology Center 2400

Before MARC S. HOFF, JAMES W. DEJMEK, and MATTHEW J. McNEILL, *Administrative Patent Judges*.

McNEILL, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1–20, which are all the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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[1] The Applicant is Broadcom Corporation, which is also the real party in interest according to Appellants. App. Br. 3.

STATEMENT OF THE CASE

Introduction

Appellants' application relates to multiple network manager coordination within single user, multiple user, multiple access, and/or MIMO wireless communications. Spec. 1:20–22. Claim 1 illustrates the appealed subject matter and reads as follows:

> 1. A wireless communication device comprising:
>
> a communication interface; and
>
> a processor configured to:
>
> support first communications, via the communication interface, with a plurality of other wireless communication devices that includes a first other wireless communication device and a second other wireless communication device based on at least one IEEE 802.11 communication protocol; and
>
> support second communications, via the communication interface, with a third other wireless communication device that is configured to support third communications based on the at least one IEEE 802.11 communication protocol with the plurality of other wireless communication devices, wherein the second communications include messages for coordinating the first communications and the third communications, for selecting the wireless communication device or the third other wireless communication device initially to serve as network manager respectively for each of the plurality of other wireless communication devices, and for switching at least one of the wireless communication device or the third other wireless communication device subsequently to serve as network manager respectively for at least one of the plurality of other wireless communication devices based on characterization of the first communications and the third communications as performed by at least one of the wireless communication device or the third other wireless communication device, wherein the wireless communication device serves as a first network manager for a first subset of the plurality of other wireless

> communication device, and wherein the third other wireless communication device serves as a second network manager for a second subset of the plurality of other wireless communication device.

The Examiner's Rejections

Claims 1–3 and 5–20 stand rejected under 35 U.S.C. § 103 as unpatentable over Dekorsy et al. (US 2010/0322171 A1; Dec. 23, 2010) and Helbig (US 2006/0217067 A1; Sept. 28, 2006). Final Act. 4–14.

Claim 4 stands rejected under 35 U.S.C. § 103 as unpatentable over Dekorsy, Helbig, and Berberana et al. (US 2014/0241276 A1; Aug. 28, 2014). Final Act. 14–16.

ANALYSIS

We have reviewed the Examiner's rejections in light of Appellants' contentions that the Examiner has erred. We disagree with Appellants' contentions. Except as noted below, we adopt as our own: (1) the findings and reasons set forth by the Examiner in the Final Action from 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 Examiner's conclusions. We highlight the following additional points.

Appellants argue the Examiner erred in rejecting claim 1 as unpatentable over Dekorsy and Helbig. App. Br. 8–21; Reply Br. 4–15. Specifically, Appellants argue Dekorsy does not teach or suggest communications among its Access Points (APs). App. Br. at 9–19. Appellants argue an ordinarily skilled artisan would not have been motivated to modify Dekorsy to allow communications between the APs because the central baseband processor 301 coordinates the operation of the APs. *Id.*

Appellants have not persuaded us of Examiner error. Appellants concede Dekorsy teaches centralized coordination of its APs by baseband processor 301. App. Br. 9–10 (citing Dekorsy, Figs. 3, 4; ¶¶ 137, 146). As pointed out by Appellants, the Examiner does not rely on Dekorsy for communication among the APs, instead relying on Helbig for such communication. *Id.* at 9 (citing Final Act. 3). The Examiner finds, and we agree, Helbig teaches APs communicating directly with each other to coordinate network coverage for terminals. Ans. 3 (citing Helbig ¶¶ 7–9).

The Examiner further finds, and we agree, an ordinarily skilled artisan would have been motivated to combine Helbig's self-coordination with Dekorsy's APs to efficiently utilize network resources, improve system performance, and eliminate the need for a centralized controller. *Id.* Appellants' arguments that an ordinarily skilled artisan would not have been motivated to combine these features do not persuasively identify error in Examiner's rationale.

Moreover, Appellants' arguments that Helbig teaches away from Dekorsy (*see* App. Br. 19) are unpersuasive for two reasons. First, Appellants argue Helbig teaches away from Dekorsy, but the test is whether Helbig or Dekorsy teach away from the claimed solution. *See In re Fulton*, 391 F.3d 1195, 1201 (Fed. Cir. 2004) ("The prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed."). Second, Appellants have not persuasively argued that Helbig actually criticizes, discredits, or otherwise discourages the claimed solution. *See id.*

Appellants also argue modifying Dekorsy to use de-centralized coordination would defeat its intended purpose of centralized network management. App. Br. 9. We disagree. As found by the Examiner, the purpose of Dekorsy is managing the APs. Ans. 3; *see also* Dekorsy ¶ 2 ("[t]he present invention relates . . . more particularly[] to devices and methods for improving resource allocation in wireless communication networks."). Appellants have not persuasively identified any error in the Examiner's finding that Helbig's de-centralized coordination would efficiently utilize network resources, improve system performance, and eliminate the need for a centralized controller.

For these reasons, Appellants have not persuaded us the Examiner erred in rejecting claim 1 as unpatentable over Dekorsy and Helbig. We, therefore, sustain the obviousness rejection of claim 1. We also sustain the obviousness rejections of independent claims 9 and 14, as well as dependent claims 2–8, 10–13, and 15–20, for which Appellants do not offer separate arguments. App. Br. 21–24.

DECISION

We affirm the decision of the Examiner rejecting claims 1–20.

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). *See* 37 C.F.R. § 41.50(f)(2016).

AFFIRMED