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

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JIANGLEI MA, PEIYING ZHU, WEN TONG,
HANG ZHANG, and MO-HAN FONG

Appeal 2017-009322
Application 14/546,732¹
Technology Center 2600

Before ERIC B. CHEN, ADAM J. PYONIN, and NABEEL U. KHAN,
Administrative Patent Judges.

KHAN, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Final Rejection of claims 21–25 and 27–40. Claims 1–20 and 26 have been cancelled. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ Appellants identify Apple Inc. as the real party in interest. App. Br. 2.

BACKGROUND

THE INVENTION

According to Appellants, the invention relates to “various types of handoffs and techniques for selecting an appropriate handoff in a wireless access network.” Spec. ¶ 2. Different types of handoffs may include soft handoffs and fast base station switching (FBSS). *See* Abstract; Spec. ¶ 7.

Exemplary independent claim 21 is reproduced below with the disputed limitation emphasized.

21. A method for facilitating a handoff for a mobile terminal in a wireless access network capable of supporting a plurality of different handoff types, the method comprising, at a base station:

determining context information associated with supporting wireless communications between the wireless access network and the mobile terminal, wherein the context information is associated with a plurality of levels; and

selecting a handoff type from the plurality of handoff types based on the context information used by the base stations involved in a handoff and wherein selecting a handoff type is further based on a level associated with the context information used by the base stations involved in the handoff, wherein the selecting of a handoff type is performed by at least one of a group comprising one of the base stations involved in the handoff, or the wireless access network.

REFERENCES AND REJECTIONS

1. Claims 21–25 and 27–40 stand rejected on the grounds of nonstatutory double patenting over claims 1–20 of U.S. Patent No. 8,909,226. Final Act. 2–5.

2. Claims 21–25, 28–36, 39, and 40 stand rejected under

35 U.S.C. § 103(a) as unpatentable over Prehofer (US 2006/0099952 A1, May 11, 2006), Wang (H. Wang & A. R. Prasad, *Security Context Transfer in Vertical Handover*, 14th IEEE INTERNATIONAL SYMPOSIUM ON PERSONAL INDOOR AND MOBILE RADIO COMMUNICATION PROCEEDINGS, 2775–79 (2003) (“Wang”)), and Agre (US 5,978,679, Nov. 2, 1999). Final Act. 6–15.

3. Claim 27 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Prehofer, Wang, Agre, Suda (US 2005/0163077 A1, July 28, 2005), and Kakishima (US 2004/0219918 A1, Nov. 4, 2004). Final Act. 15–17.

4. Claim 37 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Prehofer, Wang, Agre, and Chheda (US 7,602,722 B2, Oct. 13, 2009). Final Act. 17–19.

5. Claim 38 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Prehofer, Wang, Agre, and Pecen (US 2005/0227691 A1, Oct. 13, 2005). Final Act. 19–21

DISCUSSION

Double Patenting Rejection

The Examiner rejects claims 21–25 and 27–40 on the ground of nonstatutory double patenting over claims 1–20 of U.S. Patent No. 8,909,226. Final Act. 2–5; Ans. 2–3. Appellants do not present any arguments addressing this rejection. *See* Reply Br. 2.² Accordingly, we summarily sustain the Examiner’s double patenting rejection.

² Appellants appear to believe the claims are “provisionally rejected” on ground of nonstatutory double patenting. Reply Br. 2. However, we note the rejection is over an issued patent and the Examiner has not indicated that

Obviousness Rejection under 35 U.S.C. § 103(a)

Claim 21 recites, in pertinent part, “wherein the context information is associated with a plurality of levels . . . wherein selecting a handoff type is further based on a level associated with the context information used by the base stations involved in the handoff.” The Examiner finds this disputed limitation is taught by a combination of Prehofer, Wang, and Agre. *See* Final Act. 10 (citing Prehofer ¶¶ 85–86, 128–139, 144, Figs. 2, 10, 11; Wang § IV; Agre, Abstract, col. 2, ll. 20–41, cols. 3–10).

Appellants present arguments with respect to each of the three relied upon references. Regarding Prehofer, Appellants argue “Prehofer does not disclose selecting one handoff type of a plurality of handoff types based on a level of context information. Instead, Prehofer discloses determining a next best access point for a mobile device based on context information and performing a handoff if a handoff type is possible.” App. Br. 5.

Turning to Wang, Appellants argue “Wang fails to disclose or suggest, in its entirety, associating context information with a plurality of levels nor does Wang disclose that the handover type is based on the level of context information.” App. Br. 8; *see also* Reply Br. 5 (“Wang fails to disclose or suggest using a level of context information as the basis for selecting a type of handoff.”).

Finally, with respect to Agre, Appellants argue “Agre teaches performing a handover based on a pilot strength signal measurement report and Agre makes no mention of selecting whether to perform one of multiple

the rejection is provisional. Thus, we treat the double patenting rejection as non-provisional.

types of handoffs based on a pilot strength signal measurement report.”
App. Br. 9.

We have reviewed the Examiner’s findings and conclusions as presented in the Final Action from which this appeal is taken and in the Examiner’s Answer. We note the Examiner appears to explicitly address the “context information is associated with a plurality of levels” aspect of the disputed limitation only once in the Final Action (*see* Final Act. 10) and does not appear to address it at all in the Answer. In the Final Action the Examiner cites to a various sections of all three references but does not sufficiently identify, with specificity, where in these sections the references teach a *plurality of levels* of context information and that a handoff type is selected based on a *level* associated with the context information. Nor does the Examiner sufficiently explain how the three references would be combined to teach or suggest the plurality of levels, if indeed, the Examiner is relying on all three references to teach or suggest this aspect of the claim.

Accordingly, based on the record before us, we do not sustain the Examiner’s rejection of independent claim 21 and of independent claims 35 and 39 which were rejected on the same basis. *See* Final Act. 6–12. For the same reasons we do not sustain the Examiner’s rejection of the pending dependent claims.

DECISION

The Examiner’s rejection of claims 21–25 and 27–40 on the ground of nonstatutory double patenting is affirmed.

The Examiner’s rejection of claims 21–25 and 27–40 is reversed.

Because we affirm at least one ground of rejection for each claim, the Examiner’s rejection of the claims is affirmed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 41.50(f).

AFFIRMED