



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.
15/241,583	08/19/2016	Seau Sian Lim	LUTZ 201316US02	6953
48116	7590	10/28/2019	EXAMINER	
FAY SHARPE/NOKIA 1228 Euclid Avenue, 5th Floor The Halle Building Cleveland, OH 44115-1843			CHOUDHURY, FAISAL	
			ART UNIT	PAPER NUMBER
			2478	
			NOTIFICATION DATE	DELIVERY MODE
			10/28/2019	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):

Nokia.IPR@nokia.com
docketing@faysharpe.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SEAU SIAN LIM and SUDEEP KUMAR PALAT

Appeal 2018-006251¹
Application 15/241,583
Technology Center 2400

Before ALLEN R. Mac DONALD, CARL W. WHITEHEAD JR, and
MICHAEL M. BARRY, *Administrative Patent Judges*.

MacDONALD, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant appeals from the Examiner’s decision to reject claims 6–17 and 19–26. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ We use the word “Appellant” to refer to “Applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as Alcatel Lucent. Appeal Br. 1.

CLAIMED SUBJECT MATTER

Claim 1 is illustrative of the claimed subject matter (emphasis, formatting, and bracketed material added):

1. A method of operating a cellular wireless network, comprising:
 - [A.] broadcasting information about a capability of a cellular wireless network on a broadcast channel in a cell of the cellular wireless network from an access node associated with the cell, wherein the information about the capability includes information about a combined packet switched emergency call capability of a network combination including a packet core of the cellular wireless network and the access node;
 - [B.] allowing a user equipment to perform emergency calls in the cell where the information broadcast about the capability indicates packet switched emergency calls are supported by the network combination; and
 - [C.] **making** the user equipment ***select a different cell*** which supports emergency calls ***where*** the information broadcast about the capability ***indicates*** packet switched emergency calls ***are not supported*** by the network combination;
 - [D.] wherein the user equipment selects the different cell that supports emergency calls after receiving the broadcast with the information about the capability indicating packet switched emergency calls are not supported by the network combination.

REFERENCES²

The prior art relied upon by the Examiner is:

Name	Reference	Date
Buckley	US 2009/0047922 A1	Feb. 19, 2009
Support for IMS Emergency Calls over GPRS and EPS (Release 9) ³	3GPP TR 23.869 V0.7.0 (2009-02)	2009

REJECTION

The Examiner rejects claims 6–17 and 19–26 under 35 U.S.C. § 103 as being unpatentable over the combination of 3GPP and Buckley. Final Act. 3–10.

To the extent that Appellant discusses claims 7–17 and 19–26, Appellant merely repeats or references (directly or indirectly) the arguments directed to claim 6. Such a repeated argument (or referenced argument) is not an argument for “separate patentability.” Thus, Appellant does not present separate arguments for claims 7–17 and 19–26. Thus, the rejections of these claims turn on our decisions as to claim 6. Except for our ultimate decision, we do not discuss the § 103 rejections of claims 7–17 and 19–26 further herein.

² All citations herein to patent and pre-grant publication references are by reference to the first named inventor only.

³ Cited as “3GPP” herein. The 3GPP reference may more fully be referred to as “3rd Generation Partnership Project; Technical Specification Group Services and System Aspects; Support for IMS Emergency Calls over GPRS and EPS; (Release 9).”

OPINION

We have reviewed the Examiner’s rejections in light of Appellant’s Appeal Brief and Reply Brief arguments that the Examiner has erred.

Appellant raises the following argument in contending that the Examiner erred in rejecting claim 6 under 35 U.S.C. § 103.⁴

This obviousness rejection is in **error** because neither [3GPP], nor Buckley, nor the combination thereof disclose or fairly suggest the “making” element. . . .

Appeal Br. 8. Appellant acknowledges:

The Buckley wireless device collects information associated with available access types at the location at which the wireless device is positioned. The Buckley wireless device generates a report that lists the collected information. . . . In response to a SIP [(Session Initiation Protocol)] Invite with an emergency number, the Buckley mobile station receives and detects a SIP 380 [message] from a network node. The information contained in the SIP 380 message causes the Buckley mobile station to conform to instructions in the message, *such as instructions to utilize a different access type for further communications*. For example, instructions may be given to the SIP UA [(User Agent)] of the Buckley mobile station to choose an alternative domain, such as a circuit-switched domain, to choose a packet-switched domain, or to provide a list of access types available to the SIP UA.

Appeal Br. 8 (emphasis added). Appellant then asserts:

Buckley does not use the claimed information broadcast that indicates packet switched calls are not supported by an access node or a packet core. The claimed broadcast eliminates emergency call scenarios in which the user equipment initiates an emergency

⁴ Appellant repeats this argument (Appeal Br. 10–11) for the “wherein” clause of claim 6. We reach the same result for the same reasons.

call to a cellular wireless network that is not capable of processing the call. In fact, Buckley is an example of an efficiency problem the claimed method was intended to resolve - i.e., an emergency call that fails because the network was never capable of supporting the call followed by a sequence of messages *to identify an alternate way to complete the emergency call*. Therefore, it is not appropriate to rely on the cited portions of Buckley for disclosure of the “*making*” element.

Appeal Br. 10 (emphasis added).

The Examiner responds to Appellant’s “making” argument as follows:

Examiner notes that he must give each limitation of its broadest reasonable interpretation. Message that indicates circuit-switched domain used for emergency call as taught by Buckley at paragraph [0022] corresponds to the broadcast information and this message is indicating emergency call through circuit switch domain means emergency call is not through packet switch domain (=packet core). ***When the message indicates that the emergency call is supported by the circuit switch domain[, it] means the message indicates that the emergency calls are not supported by the packet switch network*** Buckley also broadly solves the “efficiency problem” argued by applicant since the network would be capable of making that call based on access type and that the network would be available as disclosed by Buckley (i.e., the call would not fail as argued by applicant since the networks are *available*). Again, applicant does not specifically claim *how* the capability information is broadcasted. Instead, applicant merely claims that the UE [(user equipment)] has the ability to select another/different cell based on the broadcasted capability information by the network combination when the capability information indicates packet switched emergency calls are not supported by the network combination which, again, is what is broadly taught in para. [0022] of Buckley, as noted above, where the UE chooses an alternative domain (cell) when the network combination is not supported as broadly claimed.

Ans. 6–7 (bolded italic emphasis added).

We are unpersuaded by Appellant’s argument. We disagree with Appellant’s assertions and we agree with the Examiner’s reasoning. We agree with the Examiner that “[i]n the applicant’s claim 6, the claim limitation does not further say how the information indicates that an emergency call is not supported by packet core network.” Ans. 6 (emphasis omitted).⁵ We conclude that the “making” limitation is of such breadth so as to include standard cell switching but limited to cells that support the needed purpose. As the Examiner correctly finds, Buckley teaches that needed purpose of using the circuit-switched domain for an emergency call when a packet switch emergency call is not supported by the cell. Final Act. 6, lines 5–7.

CONCLUSION

The Examiner has not erred in rejecting claims 6–17 and 19–26 as being unpatentable under 35 U.S.C. § 103.

The Examiner’s rejection of claims 6–17 and 19–26 and as being unpatentable under 35 U.S.C. § 103 is **affirmed**.

⁵ The Appellant points to paragraphs 20, 25, 26, and 31 as supporting the “making” clause of claim 6. Appeal Br. 3; *see also* Reply Br. 3–4 (additionally citing Fig. 2). As with the Examiner’s determination as to claim 6 itself, we conclude that this disclosure lacks any particular limiting specificity as to how to implement the claim 6 requirement for “indicating packet switched emergency calls are not supported by the network combination,” as recited.

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Basis	Affirmed	Reversed
6-17, 19-26	103	Buckley, IMS Emergency Calls over GPRS and EPS (3GPP Release 9)	6-17, 19-26	

TIME PERIOD FOR RESPONSE

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. § 1.136(a)(1)(iv).

AFFIRMED