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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte QIANG LI and JUSTUS PETERSSON

Appeal 2018-006883
Application 15/399,085¹
Technology Center 2400

Before JOHN A. EVANS, CATHERINE SHIANG, and
STEVEN M. AMUNDSON, *Administrative Patent Judges*.

SHIANG, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1–18, which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

¹ Appellants identify Telefonaktiebolaget L M Ericsson (publ) as the real party in interest. App. Br. 2.

STATEMENT OF THE CASE

Introduction

The present invention relates to “methods and devices of a communication network for managing subscriptions for wireless connection of a radio device having an embedded Universal Integrated Circuit Card (eUICC).” Spec. ¶ 2. Claim 1 is exemplary:

1. A method performed by a card embedded in a radio device in a communication network, the method comprising:
 - storing a fall-back policy based on a fall-back policy message received from a connectivity service platform that is separate from the radio device and in the communication network;
 - receiving, from the connectivity service platform, an event message indicating disablement, deactivation, or termination of a subscription of the radio device with a network operator, the event message being received from the connectivity service platform via a wireless network connection of the subscription; and
 - responsive to determining that the radio device will lose the wireless network connection of the subscription due to the disablement, deactivation, or termination, obtaining a different wireless network connection for the radio device using a different subscription in order to fall back in accordance with the stored fall-back policy.

*References and Rejection*²

Claims 1–18 are rejected under 35 U.S.C. § 103 as being unpatentable over Bienas (US 2010/0062779 A1; published March 11, 2010) and Lisak (US 2014/0370886 A1; published December 18, 2014). Final Act. 7–21.³

ANALYSIS⁴

We have reviewed the Examiner’s rejection in light of Appellants’ contentions and the evidence of record. We concur with Appellants’ contention that the Examiner erred in finding the cited portions of Bienas teach “receiving, from the connectivity service platform, an event message indicating disablement, deactivation, or termination of a subscription of the radio device with a *network operator*,” as recited in independent claim 1 (emphasis added). See App. Br. 9–10.

It is well established that during examination, claims are given their broadest reasonable interpretation consistent with the specification and should be read in light of the specification as it would be interpreted by one of ordinary skill in the art, but without importing limitations from the specification. See *In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004) (citations omitted); *SuperGuide Corp. v. DirecTV Enters.*,

² Throughout this opinion, we refer to the (1) Final Office Action dated September 22, 2017 (“Final Act.”); (2) Appeal Brief dated February 20, 2018 (“App. Br.”); (3) Examiner’s Answer dated May 30, 2018 (“Ans.”); and (4) Reply Brief dated June 13, 2018 (“Reply Br.”).

³ The Examiner cites pre-AIA 35 U.S.C. § 103(a) for the rejections, but the correct basis for the rejections is 35 U.S.C. § 103. We note Appellants do not contend the discrepancy caused prejudice.

⁴ Appellants raise additional arguments. Because the identified issue is dispositive of the appeal, we do not need to reach the additional arguments.

Inc., 358 F.3d 870, 875 (Fed. Cir. 2004). Here, the Specification does not specifically define the claimed “network operator.”

The Examiner maps the claimed “network operator” to Bienas’s Home Node B (HNB). *See* Final Act. 8; Ans. 8. Bienas explains Home Node B (HNB) is a type of Node B base station:

“Node B” mobile communication network element is a base transceiver station that typically contains radio frequency transmitters and receivers used to communicate directly with mobile devices, such as mobile telephones, that move freely within a communication range of one or more such Node B base stations. *A type of Node B base station, known as a “Home Node B” (HNB) may soon be added to many mobile communication networks. A “Home Node B” is a modified Node B, for use in buildings or home environments, in order to increase the in-building coverage of the network. A typical use for such a I-Home Node B may be, for example, in the home or apartment of a mobile phone user. The user would use a broadband (possibly wired) network connection, such as a conventional digital subscriber line (DSL) connection to connect a Home Node B to his operator’s core network.*

Bienas ¶ 1 (emphasis added).

Because Bienas’s Home Node B (HNB) is a type of Node B base station (Bienas ¶ 1), we agree with Appellants that one skilled in the art would not understand the HNB to be a network operator. *See* App. Br. 9–10. As a result, the Examiner fails to provide sufficient evidence or explanation to support the rejection, and we are constrained by the record to reverse the Examiner’s rejection of claim 1.

Each of independent claims 8, 9, and 18 also recites a “network operator.” *See* claims 8, 9, and 18. Therefore, for similar reasons, we reverse the Examiner’s rejection of independent claims 8, 9, and 18.

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We also reverse the Examiner's rejection of corresponding dependent claims 2–7 and 10–17.

DECISION

We reverse the Examiner's decision rejecting claims 1–18.

REVERSED