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27939	7590	02/07/2020	EXAMINER	
Philip H. Burrus, IV Burrus Intellectual Property Law Group LLC 222 12th Street NE Suite 1803 Atlanta, GA 30309			CHENG, CHI TANG P	
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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* DONG W. PAK

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Appeal 2018-008285  
Application 13/925,358  
Technology Center 2400

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Before JEFFREY S. SMITH, JOHNNY A. KUMAR, and TERRENCE W. MCMILLIN, *Administrative Patent Judges*.

KUMAR, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant<sup>1</sup> appeals from a Final Rejection of claims 1–20. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

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<sup>1</sup> 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 Vecima Networks, Inc. Appeal Br. 2.

CLAIMED SUBJECT MATTER

Claim 1 is illustrative of the claimed subject matter:

1. A method of transferring data, comprising:
  - initiating transfer of the data from a data communication circuit;
  - establishing, with a control circuit at the data communication circuit only, a sliding window defined as a function of time, existing only at the data communication circuit, and spanning a predetermined subset amount of data;
  - buffering, in a memory circuit, the predetermined subset amount of data;
  - deleting, from the memory circuit, data outside the sliding window;
  - receiving, with the data communication circuit, at least one error message in response to the initiating, the at least one error message identifying particular data encountering errors in transmission;
  - determining, with the control circuit, whether the particular data is within the sliding window; and
  - where the particular data is within the sliding window, retransmitting, with the data communication circuit, the particular data.

## REFERENCES<sup>2</sup>

The prior art relied upon by the Examiner is:

Name	Reference	Date
Gubbi et al.	US 6,574,668 B1	June 3, 2003
Padmanaban et al.	US 2005/0198028 A1	Sept. 8, 2005
Six et al.	US 2007/0067804 A1	Mar. 22, 2007
Li et al.	US 2013/0128735 A1	May 28, 2013
Cox	US 2014/0157307 A1	June 5, 2014

## REJECTIONS

Claims 1, 5, 7, 16, and 17 are rejected under 35 U.S.C. § 103 as being unpatentable over to Padmanaban and Li.

Claims 8, 10–15, 18–20, are rejected under 35 U.S.C. § 103 as being unpatentable over Padmanaban, Li and Cox.

Claims 2–4 are rejected under 35 U.S.C. § 103 as being unpatentable over Padmanaban, Li, and Gubbi.

Claim 9 are rejected under 35 U.S.C. §103 as being unpatentable over Padmanaban, Li, Cox and Gubbi.

Claim 6 is rejected under 35 U.S.C. § 103 as being unpatentable over Padmanaban, Li, and Six.

## ANALYSIS

Independent claim 1 recites, *inter alia* (emphasis added), establishing, with a control circuit at the data communication circuit only, a sliding window defined as a function of time, *existing only* at

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

the data communication circuit, and spanning a predetermined subset amount of data.<sup>3</sup>  
(hereinafter “the sliding window existing only” limitation).

Appellant’s Specification states:

[036] In one or more embodiments, *the sliding window 307 is defined, and exists, only in the data transmission device 103*. In one or more embodiments, the data reception device 105 comprises no indication that the sliding window 307 even exists. The data reception device 105 can be configured to send error messages 311. However, it will only receive retransmissions of particular data when that data falls within the sliding window 307. Where the data is not within the sliding window 307, it will not be retransmitted. However, the data reception device 105 will not have information regarding why the retransmission did not occur.

In other words, per Appellant’s Specification the claimed sliding window exists only in the data *transmission* device. The Examiner relies upon Padmanaban for the sliding window existing only limitation and finds:

Fig. 3 and paragraphs 25–39, “retransmission queue”/“transmit queue”, i.e., the “sliding window”, that, between the position of L\_V(N).sub.peer and L\_V(S), “stores copies of previously transmitted data frames, against the possibility of receiving a NAK request to retransmit one or more of the data frames”; further teaching that such (re)transmission queue as shown in Fig. 3 identified by L\_V(N).sub.peer and L\_V(S), is implemented solely at the transmitter side only and not at the receiver side [which has its own sliding window structure defined in terms of the L\_V(N) and L\_V(R) pointers], thus teaching an embodiment of “a control circuit at the data communication circuit only, a sliding window existing only at the data communication circuit”;  
Final Act. 5–6.

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<sup>3</sup> Independent claims 8 and 16 recite similar subject matter.

Appellant argues Padmanaban does not teach the sliding window existing only limitation. Appeal Br. 12–19; Reply Br. 7–9. In particular, Appellant argues (App. Br. 14–15), and we agree,

As is clearly shown in FIG. 3 of Padmanaban, reproduced below with Appellant’s annotations, this alleged “sliding window” is maintained identically at the receiver:

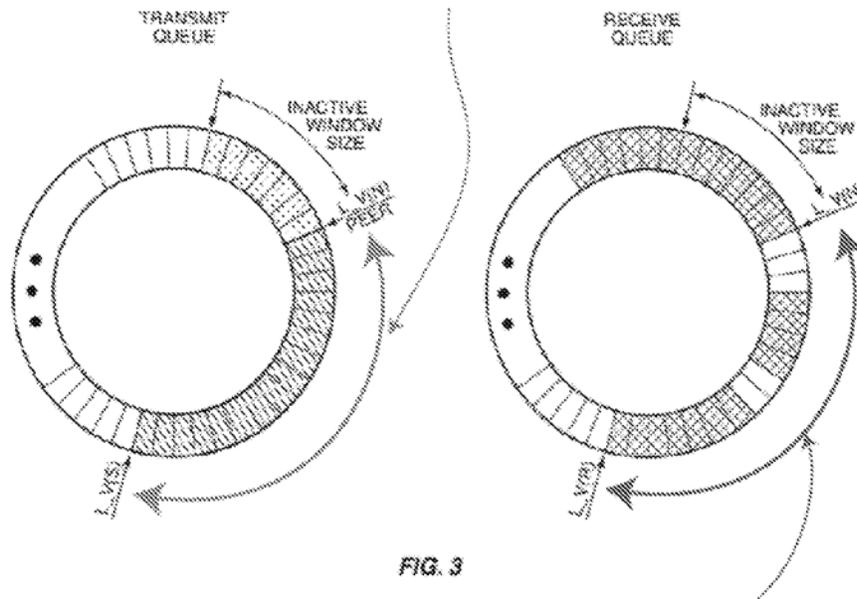


FIG. 3 is a functional diagram of the RLP transmitter and receiver buffers.

Appellant further argues:

Fig. 3 and paragraphs 25-39 [of Padmanaban] disclose the operation of two distinct ‘queues’: one located at the transmitter [defined in terms of  $L\_V(N)$ .sub.peer and  $L\_V(S)$ ] and another located at the receiver [defined in terms of  $L\_V(N)$  and  $L\_V(R)$  pointers]. ...

Padmanaban states that  $L\_V(S)$  and  $L\_V(R)$  *should be identical*. As set forth at paragraphs [0026]-[0027],  $L\_V(S)$  is the next frame to be transmitted, while  $L\_V(R)$  is the next expected frame. For proper operation, these should be the same. Moreover, as set forth at paragraph [0031], “The transmitter advances  $L\_V(S)$  as it

transmits data frames to the receiver. *The receiver maintains a pointer  $L V(N).sub.PEER$ , which is the transmitter's best estimate of the value of the pointer  $L V(N)$  at the receiver.*”

Appeal Br. 15–16.

Thus, Padmanaban requires sliding windows both in the transmitter and the receiver, rather than only in the transmitter.

We agree with Appellant’s interpretation of the disclosure of Padmanaban. *See* Appeal Br. 12–19; Reply Br. 7–9. We also agree that Li does not cure the deficiencies of Padmanaban. *See* Appeal Br. 18–19. We conclude that the Examiner’s findings are not supported by Padmanaban and Li for the reasons set forth by Appellant.

Therefore, on this record, we find the weight of the evidence supports the positions articulated by Appellant in the briefs. Accordingly, as such, we cannot sustain the Examiner’s rejection of claims 1, 8, and 16. Because we reverse the rejection of independent claims 1, 8, and 16 on appeal, we also reverse the rejections of dependent claims 2–7, 9–15, and 17–20 which depend on claims 1, 8, or 16 respectively.

CONCLUSION

In summary:

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1, 5, 7, 16, 17	103	Padmanaban, Li		1, 5, 7, 16, 17
8, 10–15, 18–20	103	Padmanaban, Li, Cox		8, 10–15, 18–20
2–4	103	Padmanaban, Li, Gubbi		2–4
9	103	Padmanaban, Li, Cox, Gubbi		9
6	103	Padmanaban, Li, Six		6
<b>Overall Outcome</b>				1–20

DECISION

The Examiner's decision to reject claims 1–20 is reversed.

REVERSED