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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/026,546	09/13/2013	Mahmoud Watfa	11475US02	1025

14868 7590 10/02/2019

Patent Docketing
200 Bellevue Parkway, Suite 300
Attention: Docketing
Wilmington, DE 19809

EXAMINER
CALLAHAN, PAUL E

ART UNIT	PAPER NUMBER
2437	

NOTIFICATION DATE	DELIVERY MODE
10/02/2019	ELECTRONIC

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MAHMOUD WATFA, GUANZHOU WANG, SAAD AHMAD, PASCAL M. ADJAKPLE, and ULISES OLVERA-HERNANDEZ

Appeal 2018-008300
Application 14/026,546
Technology Center 2400

Before JEAN R. HOMERE, ADAM J. PYONIN, and MELISSA A. HAAPALA, *Administrative Patent Judges*.

PYONIN, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant[1] appeals from the Examiner's rejection. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

[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 InterDigital Patent Holdings, Inc. Appeal Br. 3.

STATEMENT OF THE CASE

Introduction

The Application is directed to wireless communication, including "offloading traffic from a third generation partnership project (3GPP) access network to a non-3GPP access point (AP)." Spec. ¶ 4. Claims 1–20 are pending; claims 1 and 11 are independent. Appeal Br. 20–23. Claim 1 is reproduced below for reference (emphases added):

> 1. A method for offloading traffic from a third generation partnership project (3GPP) access network to a non-3GPP access point (AP) of a non-3GPP access network, the method comprising:
>
> a first 3GPP access network entity receiving traffic associated with a wireless transmit receive unit (WTRU), the traffic including:
>
> (1) traffic destined for the WTRU, and (2) traffic originating from the WTRU;
>
> on a condition that subscription information is received by a second 3GPP access network entity and indicates that the received traffic is subject to offload between the 3GPP access network and the non-3GPP access network, *the first 3GPP access network entity forwarding the traffic destined for the WTRU to the non-3GPP AP*, such that the traffic destined for the WTRU is communicated wirelessly and directly between the WTRU and the non-3GPP AP, wherein the subscription information includes indications of conditions for offloading traffic associated with the WTRU, and wherein *the non-3GPP AP is a WiFi AP*.

References and Rejections

Claims 1–9 and 11–19 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Horn (US 2011/0235546 A1; Sept. 29, 2011). Final Act. 7.

Claims 10 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Horn and Gu (US 2014/0011514 A1; Jan. 9, 2014). Final Act. 11.

ANALYSIS

Appellant argues Horn does not anticipate claim 1 because the reference "fails to teach the claimed first 3GPP[2] network access entity that: (1) receives both traffic destined for and traffic originating from a WTRU[3]," and "(2) that forwards the traffic destined for the WTRU to the non-3GPP AP." Appeal Br. 9. Particularly, Appellant contends "[n]either of Horn's GGSN[4] or L-GW[5] has a communication link to a WiFi AP, which means that none of Horn's GGSN or L-GW forward traffic destined for a WTRU in the manner recited in claim 1." Appeal Br. 8.

The Examiner maps the recited "3GPP network access entit[ies]" to Horn's gateways including Horn's GGSN and L-GW, and finds Horn discloses the gateways will "forward[] the traffic destined for the WTRU to the non-3GPP AP" as claimed:

> At [0048]-[0050] Horn teaches a local gateway or GGSN that serves as an interface between a packet-based network such as the Internet, and a cellular 3GPP network. Horn explicitly teaches that the GGSN gateway may receive data from a mobile cellular device or WTRU and forwards the data onwards to a cellular network, or vice-versa. *Importantly, Horn teaches in [0089] that the GGSN or local gateways may forward traffic*

[2] "[T]hird generation partnership project (3GPP)." Spec. ¶ 4.
[3] "[W]ireless transmit/receive unit[s] (WTRUs)." Spec. ¶ 4.
[4] "[G]ateway [general packet radio service] support node (GGSN)." Horn ¶ 10.
[5] "[L]ocal gateways or L-GWs." Horn ¶ 10.

> *from a mobile device WRTU to an Internet WiFi access point* (i.e., a WiFi router or a WiMax router).

Ans. 8 (emphasis added).

We find the Examiner's rejection is in error. There is no mention of traffic being forwarded—from a 3GPP access network entity to a non-3GPP access point that is a WiFi AP—in the cited portions of Horn. *See* Horn Fig. 3; ¶¶ 48–50, 89. These portions of Horn disclose the gateway will store connection information for a mobile device, so that "[d]evice mobility during active data services is facilitated." Horn ¶ 49. Horn's *facilitating* mobility, however, is not the same as actually forwarding traffic; without speculation, we see no support for the Examiner's contention that Horn discloses traffic forwarding as claimed. *See* Horn ¶¶ 48–50; *see also* Final Act. 8.

Further, to the extent Horn discusses a WiFi access point, Horn describes the use of "a WiFi network with one or more wireless IP routers" as a separate embodiment without further explanation. Horn ¶¶ 89, 105. Horn provides no description of communication (such as forwarding messages) between the WiFi access point and a server comprising a 3GPP network access entity as claimed. *See id*.; *see also* Reply Br. 9 ("Horn merely discloses that a UE connects to a wireless router to access a local IP network.").

Accordingly, we agree with Appellant that Horn does not disclose "the first 3GPP access network entity forwarding the traffic destined for the WTRU to the non-3GPP AP . . . wherein the non-3GPP AP is a WiFi AP," as recited in claim 1. Independent claim 11 recites similar limitations. *See* Final Act. 10 ("Claims 11-19 recite substantially the same limitations as claims 1-9"). We do not sustain the Examiner's anticipation rejection of

independent claims 1 and 11, or the anticipation and obviousness rejections of the dependent claims thereon.

DECISION

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

REVERSED