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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte IRWIN O. KENNEDY and SENAD BULJA

Appeal 2018-008315
Application 14/237,771
Technology Center 2600

Before BRYAN F. MOORE, LINZY T. McCARTNEY, and
BETH Z. SHAW, *Administrative Patent Judges*.

SHAW, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 1–20. *See* Final Act. 1. 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 Alcatel Lucent. Appeal Br. 1.

CLAIMED SUBJECT MATTER

The claims are directed to a sensor, a mobile user terminal, and a method of a sensor sensing a mobile user terminal. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method of sensing a mobile user terminal for cellular radio telecommunications, comprising:

broadcasting a common baseband signal from a sensor at each of multiple distinct carrier frequency bands associated with cellular radio telecommunications over a plurality of networks, each network of the plurality of networks being assigned one of the multiple distinct carrier frequency bands for radio signals; and

receiving an acknowledgement from a user terminal associated with any one of the plurality of networks after the user terminal received the broadcast in the distinct carrier frequency band of its network, checked information in the received signal, and sent the acknowledgement to the sensor after having determined the information is acceptable to allow connection to the sensor.

REFERENCES

The prior art relied upon by the Examiner is:

Name	Reference	Date
Jutila	US 2005/0213566 A1	Sept. 29, 2005
Han	US 2009/0219910 A1	Sept. 3, 2009
Applicant Admitted Prior Art ("AAPA")	US 2014/0248873 A1 ²	Sept. 4, 2014

² The Examiner cites the published version of the present application as AAPA.

REJECTIONS

The Examiner rejects claims 1–15, 17, 18, and 20 under 35 U.S.C. § 103 as unpatentable over Jutila and AAPA.

The Examiner rejects claims 16 and 19 under 35 U.S.C. § 103 as unpatentable over Jutila, AAPA, and Han.

OPINION

Appellant argues the Examiner erred in finding that AAPA and Jutila teach or suggest, “broadcasting a common baseband signal from a sensor at each of multiple distinct carrier frequency bands associated with cellular radio telecommunications over a plurality of networks, each network of the plurality of networks being assigned one of the multiple distinct carrier frequency bands for radio signals,” as recited in claim 1. Appeal Br. 5–10.

In particular, Appellant points out that in AAPA Figure 1, a sensor 10 includes a baseband unit 12 that provides multiple signals 14 each of which takes a respective path 16 passing through a respective digital-to-analogue converter 18 and a respective radio 20. *Id.* at 8. AAPA Figure 2 discloses a system with a baseband unit that processes multiple signals with different carrier signals to form a wideband baseband signal, instead of the claimed “common baseband signal.” *Id.* We agree with Appellant for the following reasons.

The Examiner concludes that the broadest reasonable interpretation of “common” is “the same.” Ans. 5. The Examiner then interprets “common baseband signal” as a baseband signal that is (1) the same signal, or (2) a signal that comes from the same baseband unit/source. *Id.* The interpretation of “common baseband signal” as being any “signal that comes from the same baseband unit/source” (Ans. 5) is, however, unreasonably broad, both

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in light of the Specification and in light of the Examiner's own interpretation of "common" as meaning "the same." We see no evidence in the record that a "common baseband signal" is necessarily *any* signal that comes from the same baseband unit or source.

Although the Examiner is correct that the term "common" is not explicitly defined in the claim (Ans. 5), "[t]he correct inquiry in giving a claim term its broadest reasonable interpretation in light of the specification is not whether the specification proscribes or precludes some broad reading of the claim term adopted by the examiner." *In re Smith Int'l, Inc.*, 871 F.3d 1375, 1382–83 (Fed. Cir. 2017). Rather, "[i]t is an interpretation that corresponds with what and how the inventor describes his invention in the specification, i.e., an interpretation that is 'consistent with the specification.'" *Id.* at 1383 (internal citations omitted).

Even if we accept the Examiner's interpretation of "common baseband signal" as being the same signal, we agree with Appellant that AAPA does not teach the common baseband signal. Appellant's Specification, when referring to the AAPA of Figure 1, specifically states: "As indicated in the associated Figure 1a, the N carrier signals, each having a respective frequency band, *are different.*" Spec., p. 3, ll. 24, 25 (emphasis added); AAPA ¶ 20. Additionally, Appellant points out that Figure 1 of AAPA shows that the baseband unit 12 produces multiple, i.e., N signals 14, rather than a "common baseband signal." Reply Br. 7. Although the Examiner is correct that the signals have the same label 14, and come from the same baseband unit/source (Ans. 5), the signals are described as being different. Thus, AAPA discloses that the N signals 14 are not the same, but different.

Thus, we agree with Appellant that the Examiner erred in finding AAPA teaches the claimed “common baseband signal.” The Examiner does not allege that Jutila cures this deficiency of AAPA. *See* Ans. 4 (“Jutila was relied upon for the concept of broadcasting to different networks and AAPA was relied upon for the teaching of the common base band signal and the plurality of networks to have a distinct carrier frequency band for radio signals”).

Accordingly, we do not sustain the rejection of independent claim 1 under 35 U.S.C. § 103 as unpatentable over Jutila and AAPA. For the same reasons, we also do not sustain the rejections of independent claims 7 and 11, or the pending dependent claims shown in the Decision Summary below. We also do not sustain the rejection of dependent claims 16 and 19 under 35 U.S.C. § 103 as unpatentable over Jutila, AAPA, and Han, because the Examiner does not allege that Han cures the above-noted deficiencies of AAPA. Final Act. 6.

CONCLUSION

The Examiner’s rejections are reversed.

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1–15, 17, 18, 20	103	Jutila, AAPA		1–15, 17, 18, 20
16, 19	103	Jutila, AAPA, Han		16, 19
Overall Outcome				1–20

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REVERSED