



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.
16/067,402	06/29/2018	Richard Thomas MACKENZIE	4359.176WOUS01	1019
135778	7590	09/25/2020	EXAMINER	
Patterson Thuente Pedersen, P.A. 4800 IDS CENTER 80 SOUTH 8TH STREET MINNEAPOLIS, MN 55402-2100			KO, SITHU	
			ART UNIT	PAPER NUMBER
			2414	
			NOTIFICATION DATE	DELIVERY MODE
			09/25/2020	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):

efsuspto@ptslaw.com
rabe@ptslaw.com
rausch@ptslaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte RICHARD THOMAS MACKENZIE,
MICHAEL ROBERT FITCH, and ANVAR TUKMANOV

Appeal 2020-003025
Application 16/067,402
Technology Center 2400

Before ST. JOHN COURTENAY III, ELENI MANTIS MERCADER, and
JUSTIN BUSCH, *Administrative Patent Judges*.

MANTIS MERCADER, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the
Examiner's decision to reject claims 1–13. *See* Final Act. 1. We have
jurisdiction under 35 U.S.C. § 6(b).

We held a hearing on this case on 9/17/2020.

We REVERSE.

¹ We use the term “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as the assignee, British Telecommunications Public Limited Company. Appeal Br. 2.

CLAIMED SUBJECT MATTER

The claims are directed to a base station, and a method of operating a base station, in a cellular telecommunications network. Abstract. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method of operating a first base station in a cellular network, the cellular network also including a second base station, wherein the first and second base stations include first and second oscillators providing a first and second periodic timing pulse respectively, the method comprising:

determining a relative timing offset between a first instance of the first periodic timing pulse for transmission of a frame from the first base station and a first instance of the second periodic timing pulse for transmission of a frame from the second base station;

determining a change in the relative timing offset;

and, in response, adjusting the first periodic timing pulse to maintain the relative timing offset by varying a first period between instances of the first periodic timing pulse such that a rate of change of the relative timing offset over time is reduced.

REFERENCES

The prior art relied upon by the Examiner is:

Name	Reference	Date
Han	US 2010/0054237 A1	Mar. 4, 2010
Fujishima	US 2010/0208720 A1	Aug. 19, 2010
Zhang	US 2011/0274097 A1	Nov. 10, 2011
Garcia	US 9,538,369 B2	Jan. 3, 2017

REJECTIONS

Claims 1, 6, 7, 8, and 13 are rejected under 35 U.S.C. § 103 as being unpatentable over Fujishima in view of Han. Final Act. 13.

Claims 2, 3, 5, 9, 10, and 12 are rejected under 35 U.S.C. § 103 as being unpatentable over Fujishima in view of Han in view of Zhang. Final Act. 16.

Claims 4, and 11 are rejected under 35 U.S.C. § 103 as being unpatentable over Fujishima in view of Han in view of Zhang in view of Garcia. Final Act. 18.

Claim(s) Rejected	35 U.S.C. §	Reference(s)/Basis
1, 6, 7, 8, 13	103	Fujishima, Han
2, 3, 5, 9, 10, 12	103	Fujishima, Han, Zhang
4, 11	103	Fujishima, Han, Zhang, Garcia

OPINION

Appellant argues *inter alia* that Fujishima does not teach or suggest the limitation of “adjusting the first periodic timing pulse” as recited in claim 1. *See* Appeal Br. 8, 22, 23.

Appellant argues that paragraph 77 of Fujishima relied upon by the Examiner does not teach the limitation of “adjusting the first periodic timing pulse.” *Id.* at 22–23. In particular, Appellant emphasizes that Fujishima adjusts the “frame length” according to fixed “clock counts” rather than adjusting a period of its periodic timing pulse as disclosed in Appellant’s Specification (Spec. 5:14) and recited in claim 1. *Id.* at 23.

The Examiner points us to paragraph 149 and concludes that “[c]learly, the reference signals (the synchronization signals) are periodic timing pulses with the periodicity” and relies on Fujishima paragraphs 52, 53, 77 and 78 for the teaching of adjusting this periodicity. *See* Ans. 6. However, the Examiner does not point to any teaching or suggestion in indicating that Fujishima’s reference signals are adjusted. As Appellant argues, the relevant disclosures cited as teaching adjusting a timing pulse relate to changing a frame length *based on* the fixed timing pulse. *See* Fujishima ¶¶ 77–78. Accordingly, we do not find any teaching or

Appeal 2020-003025
Application 16/067,402

suggestion in the cited paragraphs of adjusting Fujishima's reference signals. Nor does the record support a finding that Fujishima's teaching of adjusting a frame length teaches or suggests adjusting a *timing pulse*, as recited in representative claim 1.

Accordingly, we are constrained by the record before us to reverse the Examiner's rejection of claim 1 and for the same reasons the rejections of claims 2–13.

CONCLUSION

The Examiner's rejections are reversed.

The Examiner's decision to reject claims 1–13 is reversed.

DECISION SUMMARY

Claim(s) Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1, 6, 7, 8, 13	103	Fujishima, Han		1, 6, 7, 8, 13
2, 3, 5, 9, 10, 12	103	Fujishima, Han, Zhang		2, 3, 5, 9, 10, 12
4, 11	103	Fujishima, Han, Zhang, Garcia		4, 11
Overall Outcome				1-13

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).

REVERSED