

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 21

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KALYAN GANESAN and ENRIQUE LABORDE

Appeal No. 2000-0612
Application No. 08/583,357

ON BRIEF

Before HAIRSTON, DIXON, and GROSS, Administrative Patent Judges.
GROSS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1, 3 through 17, 19, and 20, which are all of the claims pending in this application.

Appellants' invention relates to a personal access communications system for implementing full two way voice and data service in a voice service area and two way messaging in areas outside the voice service area. Claims 13 and 16 are illustrative of the claimed invention, and they read as follows:

13. A wide area wireless personal communication system incorporating advanced messaging capability comprising:

Appeal No. 2000-0612
Application No. 08/583,357

at least one short range transceiver having an operating range defining a voice service area for providing voice and data communication to a user having a personal transceiver unit, the at least one short range transceiver operating on a first communication channel;

a two way messaging service area for providing advanced messaging services to users via a plurality of long range pagers, the long range pagers operating on a second communication channel different from the first communication channel, the long range pagers sharing the second communication channel.

16. A method of registering a personal transceiver unit in a two way messaging service area of a wireless personal communications system comprising the steps of:

monitoring a SBC broadcast in a voice service area with the personal transceiver unit;

switching to a predetermined paging frequency if no SBC is detected;

acquiring a long range pager broadcasting on said paging frequency by (a) searching for a strongest received long range pager signal; (b) synchronizing the transceiver unit to a long range pager having the strongest signal; and (c) reading a transmitter ID for the long range pager having the strongest signal; and

registering a location of the personal transceiver unit with the wireless personal communications system via the long range pager.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Lucas	4,506,384	Mar. 19, 1985
Harrison et al. (Harrison)	5,406,629	Apr. 11, 1995
Arnold et al. (Arnold)	5,475,677	Dec. 12, 1995
Yamada et al. (Yamada)	5,504,803	Apr. 02, 1996
		(filed Aug. 2, 1993)

Appeal No. 2000-0612
Application No. 08/583,357

Okada et al. (Okada)	5,526,398	Jun. 11, 1996 (filed May 4, 1993)
Driessen et al. (Driessen)	5,574,771	Nov. 12, 1996 (filed Aug. 15, 1994)

Claims 1 and 13 stand rejected under 35 U.S.C. § 103 as being unpatentable over Driessen in view of Okada and Lucas.

Claims 3 through 12 and 14¹ stand rejected under 35 U.S.C. § 103 as being unpatentable over Driessen in view of Okada, Lucas, and Arnold.

Claim 15 stands rejected under 35 U.S.C. § 103 as being unpatentable over Driessen in view of Okada, Lucas, and Harrison.

Claims 16, 17, 19, and 20 stand rejected under 35 U.S.C. § 103 as being unpatentable over Driessen in view of Yamada.

Reference is made to the Examiner's Answer (Paper No. 18, mailed July 19, 1999) for the examiner's complete reasoning in support of the rejections, and to appellants' Brief (Paper No. 17, filed May 10, 1999) and Reply Brief (Paper No. 19, filed September 16, 1999) for appellants' arguments thereagainst.

¹ We note that although the examiner fails to include claims 5 through 7 in the statement of the rejection, the examiner discusses claims 5 through 7 with the claims rejected over Driessen in view of Okada, Lucas, and Arnold, and appellants have treated them as being rejected together. Accordingly, we have included claims 5 through 7 in this rejection.

Appeal No. 2000-0612
Application No. 08/583,357

OPINION

We have carefully considered the claims, the applied prior art references, and the respective positions articulated by appellants and the examiner. As a consequence of our review, we will reverse the obviousness rejection of claims 1, 3 through 17, 19, and 20.

Independent claims 1 and 13 recite a first communication channel and a plurality of long range pagers which share a second communication channel. The examiner admits (Answer, page 6) that Driessen and Okada fail to disclose the long range pagers sharing a communication channel. The examiner turns to Lucas to remedy this deficiency. Specifically, the examiner asserts (Answer, page 6) that "Lucas, teaches the utilization a single channel or wherein the transmitters share one communication channel." The examiner concludes that it would have been obvious to modify the combination of Driessen and Okada "by utilizing a single channel for all the long range pagers as taught by Lucas in order to minimize the amount of interference caused by the communication system."

However, as pointed out by appellants (Brief, page 10), to modify Driessen with the teachings of Okada, the examiner states

Appeal No. 2000-0612
Application No. 08/583,357

(Answer, page 6) that it would have been obvious to use different channels for radio ports and long range pagers to "minimize/eliminate interference between the Micro-cells and Marco-cells [sic] where there is overlap between the two (Micro and Macro cells) base station transceivers." Thus, the examiner uses the same motivation, to eliminate interference, for using different channels as for using the same channel. We agree with appellants that these two statements are contradictory, cannot be used together to reject the claims. Therefore, we cannot sustain the rejection of claims 1 and 13.

In addition, Lucas discloses that interference is avoided between a local system and a wide area system that overlap with each other. On the other hand, claim 1 requires that the long range pagers define a "paging service area outside of the voice service area." Therefore, to use the teachings of Lucas, the examiner must apply the disclosure of overlapping systems. Since this contradicts the claim limitation of separate service areas, the combination of Driessen and Okada with Lucas fails to meet the limitation of a paging service area outside of the voice service area. Accordingly, we further cannot sustain the rejection of claim 1.

Appeal No. 2000-0612
Application No. 08/583,357

The examiner adds Arnold to the combination of Driessen, Okada, and Lucas to reject claims 3 through 12 and 14 and adds Harrison to the primary combination to reject claim 15. As neither Arnold nor Harrison overcomes the shortcomings of Driessen, Okada, and Lucas, we cannot sustain the rejection of claims 3 through 12, 14, and 15.

As to the rejection of claim 16, the examiner admits that Driessen fails to disclose the claimed steps of monitoring, switching to a predetermined paging frequency, and acquiring a long range pager broadcasting. The examiner contends that Yamada fills in these gaps. However, as argued by appellants (Brief, page 19), Yamada focuses on selecting one of many frequency channels available for use by a WTS, whereas claim 16 recites switching to a predetermined frequency. Further, Yamada selects the strongest channel whereas the claim recites selecting the strongest signal on a predetermined channel. Lastly, as stated by appellants (Brief, page 20), Yamada is not related to long range pagers, and therefore does not suggest the claimed steps for "acquiring a long range pager broadcasting." As the examiner admits that Driessen also does not disclose such steps, the combination fails to meet each and every limitation of claim 16

Appeal No. 2000-0612
Application No. 08/583,357

and the claims which depend therefrom. Consequently, we cannot sustain the rejection of claims 16, 17, 19, and 20.

CONCLUSION

The decision of the examiner rejecting claims 1, 3 through 17, 19, and 20 under 35 U.S.C. § 103 is reversed.

REVERSED

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
JOSEPH L. DIXON)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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Appeal No. 2000-0612
Application No. 08/583,357

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