Paper No. 23

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte YI-PIN E. WANG

Appeal No. 2002-1617
Application No. 08/752,020

ON BRIEF[1]

Before THOMAS, KRASS and DIXON, Administrative Patent Judges.

KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1, 3-6, 10, 11, 13, 14, 16-19, 23 and 25-28. Claims 2, 7-9, 12, 15, 20-22 and 24 have been indicated by the examiner as

[1]An oral hearing scheduled for February 18, 2003, was wavied by appellant.

being directed to allowable subject matter and are not here before us on appeal.

The invention is directed to a time-multiplexed short message acknowledgment system.

Independent claim 1, reproduced as follows, is representative:

1. A method of communicating access requests and short message acknowledgments in a radiotelephone communications system including a central station and a plurality of radiotelephones communicating over a plurality of carrier frequency bands, the radiotelephone communications system including a short message service (SMS) for communicating short messages from the central station to the plurality of radiotelephones, the method comprising the steps:

communicating access requests from the plurality of radiotelephones to the central station over a random access channel carrier (RACH) frequency band during a first RACH message time window, the access requests representing requests for access to the radiotelephone system, such that communication of access requests from the plurality of radiotelephones on the RACH carrier frequency band is constrained to occur during the first RACH message time window; and

communicating short message acknowledgments from the plurality of radiotelephones to the central station over the RACH carrier frequency band during a second RACH message time window, such that communication of short message acknowledgments from the plurality of radiotelephones on the RACH carrier frequency band is constrained to occur during the second RACH message time window.

The examiner relies on the following references:

Chennakeshu et al. (Chennakeshu) 5,822,310 Oct. 13, 1998
(filed Dec. 27, 1995)

Macario, "CELLULAR RADIO Principles and Design", The MacMillan Press LTD, Published 1993, pp. 162-163.

Claims 1, 3-6, 10, 11, 13, 14, 16-19, 23 and 25-28 stand rejected under 35 U.S.C. 103. As evidence of obviousness, the examiner offers Chennakeshu with regard to claims 1, 5, 6, 10, 14, 18, 19, 23, 27 and 28, adding Macario with regard to claims 3, 4, 11, 13, 16, 17, 25 and 26.

Reference is made to the brief and answer for the respective positions of appellant and the examiner.

OPINION

Turning first to the rejection of claims 1, 5, 6, 10, 14, 18, 19, 23, 27 and 28, the examiner contends that Chennakeshu teaches everything but the specific disclosure "that the communication of access requests from the plurality of radiotelephone...on the RACH carrier frequency band is constrained to occur during the first RACH message time window and communicating short message acknowledgments during second RACH message time window" [answer-pages 3-4]. However, the

examiner concludes that since Chennakeshu discloses transmission of access requests and short message acknowledgments over the RACH channels in different time slots, citing column 3, lines 31-42, and column 8, lines 54-57, it would have been obvious "to utilize the teachings of Chennakeshu, as elaborated in col. 2, lines 61 through col. 3, lines 1-42, in order to transmit access requests on the RACH carrier during a particular set of RACH time window and communicating short message acknowledgments during another set of time window..." [answer-page 4].

We will not sustain the rejection of claims 1, 5, 6, 10, 14, 18, 19, 23, 27 and 28 under 35 U.S.C. 103 because, in our view, the examiner has not established a prima facie case of obviousness.

The examiner appears to acknowledge that the applied reference does not specifically teach the very improvement over the prior art that appellant has made, that is, constraining access requests and short message acknowledgments to respective time windows on a random access channel carrier (RACH). Yet, the examiner contends that it would have been obvious to do what appellant has done. The examiner opines that it would have been obvious to "utilize the teachings of Chennakeshu...in order to transmit access requests on the RACH carrier during a particular

set of RACH time window and communicating short message acknowledgments during another set of time window...” but has set forth no convincing rationale as to why the artisan would have been led to constrain access requests and short message acknowledgments to respective time windows on a RACH when, by all accounts, Chennakeshu appears to teach against this. As appellant points out, Chennakeshu teaches that acknowledgments may be transmitted on “all time slots of the ...RACH” [column 8, lines 6-8] and that it is preferable that consecutive repetitions of a RACH message be transmitted on “separate carrier frequencies” [column 8, line 18]. Even though acknowledgments in Chennakeshu “may” be transmitted on “all” time slots and it is “preferable” to transmit repetitions on “separate carrier frequencies,” which means that other embodiments are available, the examiner has not adequately shown that such other embodiments would meet the instant claim language. Clearly, in the preferred embodiments of the reference, acknowledgments in “all” time slots is not an acknowledgment constrained to a first RACH message time window and transmission of repetitions on “separate carrier frequencies” is not a single carrier frequency as required by the instant claims. Note, in claim 1, for example, that access requests are communicated over “a” RACH frequency band and the

short message acknowledgments are communicated over "the," i.e., the same, RACH carrier frequency band. Thus, the claims require a single RACH frequency band and the examiner has not shown where Chennakeshu suggests the communication of access requests and short message acknowledgments over the "same," or single, random access channel carrier (RACH) frequency band.

Since all of the rejected independent claims contain similar language regarding constraining access requests and short message acknowledgments to respective time windows on a random access channel carrier (RACH) and the use of a single frequency band, we will not sustain the rejection of any of the claims under 35 U.S.C. 103, noting, with regard to dependent claims 3, 4, 11, 13, 16, 17, 25 and 26, that the addition of Macario does not remedy the deficiencies of Chennakeshu.

The examiner's decision is reversed.

REVERSED

JAMES D. THOMAS Administrative Patent Judge	)	
ERROL A. KRASS Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
JOSEPH L. DIXON Administrative Patent Judge	)	

EK/RWK

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