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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/091,264	03/28/2005	Han-Na Lim	678-1951	3296
66547	7590	03/31/2011	EXAMINER	
THE FARRELL LAW FIRM, P.C. 290 Broadhollow Road Suite 210E Melville, NY 11747			AJIBADE AKONAI, OLUMIDE	
			ART UNIT	PAPER NUMBER
			2617	
			MAIL DATE	DELIVERY MODE
			03/31/2011	PAPER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HAN-NA LIM, JONG-HYO LEE, UN-TAEK LIM,
SUNG-JIN PARK, KI-HO JUNG, JU-YEON SONG,
and JUN-HWAN KIM

Appeal 2009-009280
Application 11/091,264
Technology Center 2600

Before MAHSHID D. SAADAT, MARC S. HOFF,
and CARL W. WHITEHEAD, JR., *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1-40, which constitute all the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

STATEMENT OF THE CASE

Appellants' invention relates to "a method and system for enabling a third generation (3G) mobile equipment to subscribe to a digital broadcasting service and receive the digital broadcasting service by using information about the mobile equipment's subscription to a 3G mobile communication network" (Spec. 1:16-19). Claim 1, which is illustrative of the invention, reads as follows:

1. A method of subscribing to a digital broadcasting service using mobile subscription information associated with subscription to a mobile communication network, comprising the steps of:

transmitting a subscription request message from the mobile communication network to a digital broadcasting system (DBS), upon request of a user through mobile equipment, the subscription request message containing mobile subscription information of the user required for subscription to the digital broadcasting service;

receiving from the DBS broadcasting reception information required for the mobile equipment to receive the digital broadcasting service; and

setting the broadcasting reception information at the mobile equipment so that the user can receive the digital broadcasting service, notifying the mobile equipment of the digital broadcasting subscription approval and receiving the digital broadcasting service according to the broadcasting reception information at the mobile equipment.

The Examiner relies on the following prior art in rejecting the claims:

Aaltonen	US 2002/0023264 A1	Feb. 21, 2002
Lipsanen	WO 03/045064 A1	May 30, 2003
Kopra	WO 03/090484 A1	Oct. 30, 2003
Sirén	US 6,763,236 B2	Jul. 13, 2004
Lee	US 2004/0185869 A1	Sep. 23, 2004
Reidelsturz	US 2005/0136884 A1	Jun. 23, 2005
Kallio	US 7,050,789 B2	May 23, 2006

Claims 1-7, 12-21, and 25-27 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Lipsanen in view of Sirén.

Claims 28, 29, and 40 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Lipsanen in view of Reidelsturz.

Claims 8, 9, and 22 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Lipsanen in view of Sirén, and further in view of Lee.

Claims 30, 38, and 39 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Lipsanen in view of Reidelsturz, and further in view of Sirén.

Claims 10, 11, 23, and 24 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Lipsanen in view of Sirén, and further in view of Kallio.

Claims 31 and 32 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Lipsanen in view of Reidelsturz, and further in view of Aaltonen.

Claims 35 and 36 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Lipsanen in view of Reidelsturz, and further in view of Lee.

Claims 33 and 34 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Lipsanen in view of Reidelsturz, and further in view of Kopra.

Claim 37 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Lipsanen in view of Reidelsturz, and further in view of Kallio.

Rather than repeat the arguments here, we make reference to the Brief (filed Sep. 3, 2008) and the Answer (mailed Nov. 10, 2008) for the respective positions of Appellants and the Examiner. Only those arguments actually made by Appellants have been considered in this decision. Arguments that Appellants did not make in the Brief have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).

ISSUES

Appellants' arguments for the patentability of claims 2-40 rely on or repeat arguments made for the patentability of claim 1 (Br. 11, 13-15). Therefore, we select claim 1 as the representative claim, pursuant to our authority under 37 C.F.R. § 41.37(c)(1)(vii).

Appellants contend that the Examiner has not established a prima facie case of obviousness (Br. 10), presenting the following issues:

1. Does Lipsanen, in view of Sirén, teach or suggest “transmitting a subscription request message from the mobile communication network to a digital broadcasting system (DBS), upon request of a user through mobile equipment, the subscription request message containing mobile subscription information of the user required for subscription to the digital broadcasting service” (hereinafter “transmitting step”), as recited in claim 1 (*see* Br. 6)?
2. Does Lipsanen teach or suggest “notifying the mobile equipment of the digital broadcasting subscription approval” (hereinafter “notifying step”), as recited in claim 1 (*see* Br. 6)?

FINDINGS OF FACT (FF)

Lipsanen

1. Lipsanen discloses a request to provide broadcast parameters that is sent to a Broadcast server 130 by a Telecom server 120 upon receipt by the Telecom server 120 of a “get n” message from a terminal browser associated with a mobile terminal 100 (Lipsanen 8:8-12; Fig. 1).

2. Lipsanen discloses that all requests for broadcast services are routed through the telecom network and are kept track of by a billing server associated with the telecom network (Lipsanen 11:1-3).

3. Lipsanen discloses that the Broadcast server 130 returns the broadcast parameters to the Telecom (i.e., Portal) server 120 and the Telecom Server 120 sends the broadcast parameters to the mobile terminal 100 to enable the mobile terminal to set its broadcast receiver to receive service (Lipsanen 8:12-28, 9:18–11:9; Figs. 1, 3).

Sirén

4. Sirén discloses a service request SR1 sent by a mobile node MN1 which comprises four fields, including a field F1 indicating the sender and the destination of the service request and a priority level for indicating basic and other services (col. 9, ll. 8-13). Sirén further discloses that a field F3 is or indicates a user service profile (col. 9, ll. 16-18).

Appellants' Specification

5. Appellants' Specification discloses that a Subscription Agent Server (SAS) 23 is located in the Digital Broadcasting Service (DBS) 20 (Fig. 1; Spec. 7:19-20) and that the SAS processes digital broadcasting subscription requests. The digital broadcasting subscription requests are

received from a user equipment (UE) 11, 13, 15 by way of the mobile communications network 30 and the internet 40 (Fig. 1; Spec. 7:27-31).

6. Appellants' Specification discloses a Digital Broadcasting System-Call Session Control Function (DBS-CSCF) that forwards the broadcasting reception information to the UE in order to notify the user equipment that the digital broadcasting subscription has been approved (Spec. 10:7-9).

ANALYSIS

“Transmitting Step” limitation

Appellants contend that Lipsanen's transmission of a “get n” message does not relate to a subscription request message because it does not include information required for a subscription (Br. 8). Appellants additionally contend that Lipsanen does not teach generating a subscription request message in a mobile network (Br. 9-10). Appellants further contend that Sirén teaches away from Appellants' invention because Sirén teaches that a mobile unit sends a subscription request with subscription information while in the claimed invention the user is “relieved of providing his user personal information to receive a digital broadcasting service . . . in real time/on-line” since the “mobile communication network already has this information and sends it for the user” (Br. 9).

The Examiner responds that Lipsanen, as modified by Sirén, discloses (i.e., teaches or suggests) the transmitting step, and that Sirén does not teach away from the claimed invention (Ans. 26). We agree with the Examiner.

Sirén discloses that a subscription request message containing mobile subscription information of the user required for subscription to the digital

broadcasting service is known in the art (FF 4). Therefore, Appellants' argument that Lipsanen's "get n" message lacks information required for a subscription is unpersuasive as it attacks the disclosure of Lipsanen individually, rather than addressing the combination with Sirén described by the Examiner. *See In re Keller*, 642 F.2d 413, 425 (CCPA 1981).

Appellants' remaining arguments rely on limitations not found in the claim. The preamble of the claim recites that the "mobile subscription information [is] *associated with* subscription to a mobile communication network" (emphasis added), but the claim includes no limitation as to where the mobile subscription information is generated or stored. Further, the claim includes no limitation as to where a subscription request is generated, reciting only that it is transmitted from the mobile communication network to a DBS. Contrary to Appellants' contention (Br. 9-10), the claim does not require that the request be generated by the mobile communication network. Accordingly, nothing in the claim relieves the user from providing his personal subscription information, as urged by Appellants (Br. 9). For example, nothing in the claim precludes the mobile subscription information from being included by the mobile equipment in the request of the user through the mobile equipment, with the entire request of the user, including the mobile subscription information, being relayed (i.e., transmitted) to the DBS by the mobile communication network.

We find, as did the Examiner, that Lipsanen discloses transmitting a subscription request message from the mobile communication network to a DBS upon request of a user through mobile equipment (FF 1) and that Sirén discloses that a subscription request message containing mobile subscription information of the user required for subscription to the digital broadcasting

service is known in the art (FF 4). We further find that nothing in Sirén teaches away from including the mobile subscription information in a subscription request message transmitted from the mobile communication network to a DBS. Therefore, we conclude that it would be obvious to one skilled in the art to combine Sirén's user subscription information with Lipsanen's subscription request message, thereby meeting all of the limitations recited in the transmitting step recited in claim 1.

For emphasis only, we note that the principal relevant difference between Appellants' disclosed invention and Lipsanen is that Appellants disclose performing subscription management functions at a server in the DBS (FF 5), while Lipsanen performs subscription management functions at a server in the mobile communication network (FF 2). It would have been obvious to a person skilled in the art to modify the server of Lipsanen such that the server managing the subscription is provided with the necessary user information, and Sirén teaches that it is known to include that information in a subscription request (FF 4). "The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007). "If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability." *Id.* at 417.

"Notifying Step" limitation

The Examiner finds that Lipsanen's disclosure of "the mobile terminal receiving service parameters from the telecom server 120" (Ans. 5) meets the claimed notifying step. Appellants contend that "receiving service parameters from the telecom server does not notify the mobile equipment of the digital broadcast approval" (Br. 8). The Examiner responds by pointing

out (Ans. 25) that Appellants' Specification expressly states that the notifying step occurs by the DBS-CSCF delivering broadcasting reception information to the UE (*see* FF 6).

We agree with the Examiner. The Examiner gives the claims their broadest reasonable meaning, consistent with the Specification, *see In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997). In view of the explicit statement in Appellants' Specification that the UE is notified of subscription approval by the delivery of broadcasting reception information (FF 6), we find that Lipsanen's forwarding of broadcast reception information to a UE (Lipsanen's "mobile terminal") (FF 3) meets the notifying step.

By citing to MPEP §§ 2183-2184, Appellants contend (Br. 7-8) that the Examiner improperly found the disclosure of Lipsanen to be "equivalent" to Appellants' disclosure. We do not find that the Examiner has alleged equivalence. Rather, the Examiner has correctly found that Lipsanen discloses the notifying step as recited in the claim when read consistently with the Specification, *see Morris*, 127 F.3d at 1054. Furthermore, the cited portions of the MPEP relate to the examination of claims in the means- or step-plus-function form permitted by 35 U.S.C. § 112, sixth paragraph. We note that Appellants have not identified any part of the claim as a means- or step-plus-function element (Br. 2-3) (*see* 37 C.F.R. § 41.37(c)(1)(v)). Therefore, the contention is unpersuasive for this additional reason.

For emphasis only, we note that the claim contains neither an "approving" step nor any limitation as to when, where, or how a subscription approval originates. Lipsanen discloses the use of a billing server through which requests for broadcast services (i.e., subscription requests) are routed

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(FF 2). We find that implicit in the process of billing for access to the subscription broadcast service is subscription request approval, and that one skilled in the art would understand that transmission of the broadcast parameters to the user equipment notifies the user equipment that it is authorized to receive the broadcast (i.e., the subscription is approved).

CONCLUSION

On the record before us, we conclude that the Examiner did not err in rejecting claim 1. Accordingly, the rejections of claims 1-40 are sustained.

ORDER

The decision of the Examiner rejecting claims 1-40 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2010).

AFFIRMED

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