

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 7

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte DOUGLAS I. AYERST,  
ROBERT GARY GOODMAN,  
and  
JAMES A. STARKWEATHER

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Appeal No. 2000-0272  
Application No. 08/922,715

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ON BRIEF

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

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1, 3 through 5 and 9 through 13.

The disclosed invention relates to a re-registration interval that must be exceeded before a selective call transceiver at a subscriber unit sends a re-registration signal to a base station.

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Claim 13 is illustrative of the claimed invention, and it reads as follows:

13. In a selective call transceiver that receives stored messages from a base station on a forward channel and transmits signals to the base station on a reverse channel, a method of re-establishing communication with the base station after temporarily losing the forward channel, comprising:

- a) storing an indication of a re-registration interval;
- b) determining when the forward channel has been lost, irrespective of whether a message was being received from the base station;
- c) upon re-acquiring the same forward channel, determining whether the forward channel was lost for a duration that exceeds the re-registration interval; and
- d) without changing channels, transmitting a re-registration signal to the base station if the re-registration interval was exceeded.

The references relied on by the examiner are:

Fascenda et al. (Fascenda)	4,845,491	Jul. 4, 1989
Balachandran	5,594,943	Jan. 14, 1997
	(effective filing date Aug. 9, 1994)	

Claims 1, 3 through 5 and 9 through 13 stand rejected under 35 U.S.C. § 103 as being unpatentable over the admitted prior art, Balachandran and Fascenda.

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Claims 1, 3 through 5 and 9 through 13 stand rejected under the judicially created doctrine of obviousness-type double patenting based upon claims 1 through 4 found in U.S. Patent No. 5,710,547.

Reference is made to the brief (paper number 5) and the answer (paper number 6) for the respective positions of the appellants and the examiner.

#### OPINION

We have carefully considered the entire record before us, and we will reverse the obviousness rejection of claims 1, 3 through 5 and 9 through 13, and sustain the obviousness-type double patenting rejection of claims 1, 3 through 5 and 9 through 13.

According to the examiner (answer, pages 4 and 5), "[t]he applicant admits that in the prior art a typical pager transceiver sends a re-registration signal on a reverse channel upon loosing [sic, losing] the forward channel," and "[i]n an analogous art, Balachandran teaches the use of a timer to ensure that re-establishment occurs with sufficient frequency yet does not interfere with the communication capacity." Based upon these teachings, the examiner concludes (answer, page 5) that "it would

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have been obvious to one of ordinary skill in the art at the time of the invention to have utilized a timer (re-registration interval) to control the sending of a re-registration signal in the admitted system."

Although it is known in the acknowledged prior art for a subscriber unit to register with a system by transmitting "registration information back to the base station receivers" (specification, page 1), it is not known in the acknowledged prior art to transmit such registration information in response to expiration of a re-registration time interval or any other time interval. Balachandran discloses a timer and a time interval, but it is used to facilitate handoff of a remote unit from one channel to another channel (Figures 7 and 8; column 16, lines 15 through 28 and column 18, lines 20 through 26). As explained by Balachandran (column 18, lines 40 through 45), "using a T\_\_HANDOFF1 timer allows a remote unit in accordance with the present invention to ensure that scanning occurs with sufficient frequency to ensure that the remote unit chooses the best channel available, yet not so frequently as to disrupt the communications capacity."

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Appellants argue (brief, pages 11 and 12) that Balachandran is concerned with scanning channels until a good one is found (i.e., "re-establishment") as opposed to re-registration after expiration of a timing interval. Appellants have not challenged the examiner's finding (answer, page 5) that "Fascenda shows the advantages of over the air broadcasting to indicate parameters which are used to control the pager's operation," but they do argue (brief, page 13) that **"there is no teaching, suggestion, or motivation given in the admitted prior art, Balachandran, or Fascenda for a timer that starts upon the loss of a channel and for a re-registration on the same channel."**

We agree with appellants' arguments. Neither the acknowledged prior art nor the applied references teaches or would have suggested re-registration after the expiration of a timing interval. Thus, the obviousness rejection of claims 1, 3 through 5 and 9 through 13 is reversed.

The obviousness-type double patenting rejection of claims 1, 3 through 5 and 9 through 13 is sustained pro forma because appellants' only response to the rejection is that they "will file a Terminal Disclaimer when allowable subject matter exists in the application" (brief, page 15).

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DECISION

The decision of the examiner rejecting claims 1, 3 through 5 and 9 through 13 under 35 U.S.C. § 103 is reversed, and the decision of the examiner rejecting claims 1, 3 through 5 and 9 through 13 under the judicially created doctrine of obviousness-type double patenting is affirmed. Accordingly, the decision of the examiner is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

KENNETH W. HAIRSTON	)	
Administrative Patent Judge	)	
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	)	BOARD OF PATENT
PARSHOTAM S. LALL	)	APPEALS AND
Administrative Patent Judge	)	INTERFERENCES
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JOSEPH L. DIXON	)	
Administrative Patent Judge	)	

KWH:hh

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MOTOROLA, INC.  
IP DEPARTMENT MS96  
1500 GATEWAY BLVD.  
BOYNTON BEACH, FL 33426