

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

Paper No. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte KLAUS-DIETER PILLEKAMP and MANFRED TASTO

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Appeal No. 2000-1462  
Application No. 08/592,427

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ON BRIEF

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Before THOMAS, KRASS and LALL, Administrative Patent Judges.  
KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1-16, all of the pending claims.

The invention is directed to a universal mobile telecommunications system. In particular, the invention is said to allow a picocell-individual cordless telecommunications system to be expanded to communications cells with different cell radii

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and it is also alleged that a cordless telecommunications system expanded to communication cells with differing cell radii manages in the expanded cordless range with a lower transmitted power for cordless mobile stations.

Independent claim 1 is reproduced as follows:

1. A universal mobile telecommunications system, comprising:

an expanded cordless telecommunications system, which covers a picocell range with at least one picocell and

a cell range of higher order than the picocell range, with at least one cell of a higher order than the picocell;

a picocell mobile station which is assigned to the picocell and connectable by telecommunications to a relay station contained in the picocell,

the relay station being adapted such that the relay station is connectable by telecommunications to a transmitting/receiving arrangement contained in the higher-order cell;

the relay station having allocated thereto function of telecommunications connection to the transmitting/receiving arrangement assigned to a higher-order cell for forming a cordless telecommunications system including the picocell mobile station and covering the picocell and the relay station also having a function of a picocell base station.

The examiner relies on the following references:

Labeledz	4,797,947	Jan. 10, 1989
Higuchi et al. (Higuchi)	5,161,252	Nov. 03, 1992
Tsuda	5,345,594	Sep. 06, 1994
Masuda	5,408,679	Apr. 18, 1995

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Krebs	5,557,320	Sep. 17, 1996 (filed Jan. 31, 1995)
Dunn et al. (Dunn)	5,625,877	Apr. 29, 1997 (filed Mar. 15, 1995)
Pillekamp	5,594,737	Jan. 14, 1997 (filed Nov. 2, 1993)

Chia, "The Universal Mobile Telecommunication System," IEEE Communications Magazine, No. 12 (December 1992), pp. 54-62.

Claims 1-16 stand rejected under 35 U.S.C. 103. As evidence of obviousness, the examiner offers Chia and Tsuda with regard to claims 1,6 and 11, adding Masuda with regard to claims 2 and 3 and further adding Higuchi with regard to claim 4. With regard to claims 5, 7, 8 and 10, the examiner relies on Chia, Tsuda and Labeledz, while the examiner relies on Chia, Tsuda and Dunn with regard to claim 9. Chia, Tsuda and Pillekamp are relied on with regard to claims 12 and 13 and the examiner relies on Chia, Tsuda and Krebs with regard to claim 14.

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

#### OPINION

At the outset, we note that, in accordance with appellants' grouping of claims, at page 13 of the brief, all claims will

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stand or fall with independent claim 1.

The examiner has the initial burden of establishing a prima facie case of obviousness of the claimed subject matter.

Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination; ACS Hosp. Sys., 732 F.2d at 1577, 221 USPQ 929, 933 and "teachings of references can be combined *only* if there is some suggestion or incentive to do so." Id.

It is the examiner's position that Chia discloses the preamble and the first recited element of claim 1 but fails to disclose the remainder of the claim, i.e., "a picocell mobile station which is assigned to the picocell and connectable by telecommunications to a relay station contained in the picocell...the relay station also having a function of a picocell base station." The examiner contends that Tsuda discloses a system in which a relay station is utilized as it receives then transmits information, referring to Figure 1. The examiner concludes that it is "well known" to include in a cordless system a relay as taught by Tsuda and that it would have been obvious to modify Chia by "specifically disclosing a relay station within

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the communication system. This would have been necessary since a relay is used to complete a call. The relay acts as a 'go-between' within a communications system thus permitting the calls to be executed" [Paper No. 7, page 4].

Even assuming that Chia and Tsuda disclose everything alleged by the examiner, which they do not, the examiner has not established a reasonable basis for combining the teachings of these references.

As explained by appellants, at page 14 of the brief, whereas the prior art communicated between a picocell telecommunication system and a mobile radio system by using another communication system or network, and wherein cordless picocell telecommunication systems have a picocell base station and at least one picocell mobile station which is allocated to the picocell base station, the instant invention replaces the picocell base station by a relay station which is allocated to a transceiver arrangement within an over-riding cell. The relay station simultaneously serves for bi-directional communication between the picocells and the over-riding cells and so a communication which overlaps cells is possible without incorporating another communication system or network. This is made clear by the language of independent claim 1.

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As admitted by appellants, Chia discloses a cordless telecommunication system with at least one micro cell network and one over-riding macro-cell network wherein the microcell network is provided for communication in regions with higher communication density and the macrocell network is provided for communication in regions with lower communication density. However, the microcell base station constructed as a cell mobile station of the overriding macrocell network, as recited in claim 1, is not suggested by Chia.

Appellants also argue that Tsuda discloses a relay station which serves in a unidirectional capacity, transferring data from one base station to a plurality of terminal stations but not transferring any data from a terminal station to the overriding base station. Therefore, appellants argue, there would have been no suggestion in Tsuda for providing a relay station "as a radio base station which controls the communication between the terminal stations, as well as, to constructed [sic] as a mobile station of the overriding base station via which a bidirectional communication between a terminal station and the overriding base station is enabled" [brief-page 15]. We agree.

The examiner contends that appellants' arguments are based on non-claimed limitations but we find that claim 1 does require

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bidirectional communication and the use of a relay station as a go-between, e.g., "the relay station is connectable by telecommunications to a transmitting/receiving arrangement contained in the higher-ordered cell."

Claim 1 contains many specific limitations and the examiner has not set forth, in any meaningful way, exactly how the Chia and Tsudo references are being applied to the instant claim language. Other than generally alleging that Chia discloses the first four lines of the claims and that Tsudo discloses the remainder of the claim, pointing to Figure 2 of Chia and to Figure 1 of Tsudo, the examiner has not indicated what elements in the applied prior art correspond to the specific elements of claim 1.

While the examiner has alleged that it is "well known" to include in a cordless system a relay as taught by Tsuda, the examiner has not established, by any degree of reasonableness, that the relay taught by Tsuda corresponds to the relay station set forth in independent claim 1. Therefore, even if it were obvious to insert a relay station, as claimed, into the system of Chia, there would still be no suggestion, by Tsuda, of the claimed relay station and so the examiner has not established the obviousness of the instant claimed subject matter.

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Since the examiner has clearly failed to establish a prima facie case of obviousness of the instant claimed subject matter, we will not sustain the rejection of claims 1-16 under 35 U.S.C. 103.

The examiner's decision is reversed.

REVERSED

JAMES D. THOMAS	)	
Administrative Patent Judge	)	
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ERROL A. KRASS	)	BOARD OF PATENT
Administrative Patent Judge	)	APPEALS AND
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PARSHOTAM S. LALL	)	
Administrative Patent Judge	)	

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