

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.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. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte YUQIANG TANG

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Appeal No. 2001-2029  
Application No. 09/095,170

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ON BRIEF

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Before KRASS, GROSS and LEVY, Administrative Patent Judges.

KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1-3, 5-8, 10-13 and 15.

The invention pertains to locating a mobile telephone within a network.

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Independent claim 1, reproduced as follows, is  
representative of the invention:

1. A method for locating a mobile telephone within a cellular telephone communication network having a plurality of cells, wherein each of said plurality of cells includes a base station coupled to at least one antenna, said method comprising the steps of:

dividing each entire individual cell into a plurality of sections using a set of substantially rectangular grids;

collecting location information and signal information at each of said plurality of sections within said cell for signals transmitted by said base station and other base stations located in cells adjacent to said cell;

processing said collected location information and said collected signal information into a signal information profile database; and

determining a section in which said mobile telephone is located utilizing said signal information profile database, wherein each entry within said signal information profile database includes a location information and an associated signal information of a section.

The examiner relies on the following references:

Bonta	6,014,565	Jan. 11, 2000 (filed May 29, 1998)
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Claims 1-3, 5-8, 10-13 and 15 stand rejected under 35 U.S.C. 102(e) as anticipated by Bonta.

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

OPINION

Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert. dismissed, 468 U.S. 1228 (1984); W.L. Gore and Assoc., Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

It is the examiner's position that the instant claims are anticipated by Bonta. In support of this allegation, with respect to instant claim 1, the examiner points to Bonta's abstract and "entire disclosure" for the claimed preamble of "locating a mobile telephone within a cellular telephone communication network having a plurality of cells." The examiner points to Bonta's Figures 2 and 3 for the claimed "dividing each entire individual cell into a plurality of sections using a set of substantially rectangular grids," and to Bonta's column 2, line 59-column 5, line 45 for the claimed "collecting location

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information and signal information at each of said plurality of sections." The "processing" of the collected location information and signal information into a signal profile database is said to be taught at column 3, line 47-column 14, line 19 of the reference and the final "determining" step is said to be taught at column 5, line 15-column 14, line 19.

Initially, we point out that referring to columns 3-14 or to columns 5-14 amounts to a very broad reference, including the bulk of the patent reference disclosure, within a disclosure purporting to teach a "processing" and "determining" step, respectively. This leads us to believe that there is not one particular section of the reference to which the examiner can point in order to evidence a specific teaching of processing collected location and signal information or of determining a section in which the mobile telephone is located using information in a signal information profile database generated by the processing step.

In fact, appellant argues that Bonta is not even directed to locating a mobile telephone at all but, rather, to generating a neighbor list via simulations. We agree. While one may argue convincingly that the location of the mobile telephone must be known in order to establish where a certain simulation occurs and

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whether there is a strong signal at particular locations so that this information may be used in order to generate a handover neighbor list, listing potential handover candidate base transceiver stations, this is not a method for locating a mobile telephone within a communications network, as claimed. The mobile telephone location does not need to be determined in Bonta because it is already known. Bonta is interested in using simulation apparatus, which may be a software simulation tool, to utilize various handover parameters as well as predefined routes and locations along which a mobile communication unit may travel, to select the best possible target base transceiver stations for a handover of a mobile communication signal from a source base transceiver station to a target base transceiver station. It is true that Bonta partitions the system into a grid pattern and assigns coordinates, which has some semblance to the claimed "plurality of sections using a set of substantially rectangular grids." However, these grids are not used in the same manner claimed in order to locate a mobile telephone within the network.

Moreover, appellant argues that Bonta does not disclose the claimed "collecting location information and signal information at each of said plurality of sections within said cell for signals transmitted by said base station and other base stations

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located in cells adjacent to said cell.”

The appellant appears to make a reasonable argument here and the examiner offers no response to this argument in the response section of the answer. All we are left with is the examiner's original rejection, pointing to column 2, line 59-column 5, line 45, of Bonta for a teaching of the claimed “collecting location information and signal information at each of said plurality of sections within said cell for signals transmitted by said base station and other base stations located in cells adjacent to said cell.”

Since we do not find such a teaching and the examiner has not specifically pointed to a section of Bonta alleged to teach this limitation, preferring, instead, to merely make reference to more than 3 full columns of the patent reference, the examiner has not convinced us of the correctness of his position.

This, taken together with no teaching of Bonta even being directed to locating a mobile telephone within a cellular telephone communication network, convinces us that the examiner has not established a prima facie case of anticipation, within the meaning of 35 U.S.C. 102(e).

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Accordingly, the examiner's decision rejecting claims 1-3, 5-8, 10-13 and 15 under 35 U.S.C. 102(e) as anticipated by Bonta is reversed.

REVERSED

ERROL A. KRASS	)	
Administrative Patent Judge	)	
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ANITA PELLMAN GROSS	)	BOARD OF PATENT
Administrative Patent Judge	)	APPEALS AND
	)	INTERFERENCES
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	)	
STUART S. LEVY	)	
Administrative Patent Judge	)	

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