

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHANG-SOO PARK and HYEON-WOO LEE

Appeal 2007-0466
Application 10/209,114
Technology Center 2600

Decided: October 26, 2007

Before JOSEPH F. RUGGIERO, LANCE LEONARD BARRY, and
HOWARD B. BLANKENSHIP, *Administrative Patent Judges*.

BLANKENSHIP, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING
INTRODUCTION

Appellants' Request for Rehearing (filed Jun. 1, 2007; Certificate of Mailing dated May 30, 2007) contends that we erred in our Decision on Appeal entered March 30, 2007 ("Decision"), in which we sustained the rejection of claims 12-16 and 26-28.

OPINION

We hold to our previous conclusion that Appellants failed to show error in the rejection of the claims over the applied prior art. Appellants' briefs purported to show error in the rejection of claims found by the Examiner to be anticipated by Nystrom (US 6,189,123 B1), with claim 26 being a representative claim in our review of the § 102 rejection.

Appellants' Request does not show that we misapprehended or overlooked anything in making our determinations, but instead appears to merely reargue points that we considered and addressed in the earlier decision.

Notwithstanding the allegations on pages 2 and 3 of the Request, Appellants seem to recognize that we *expressly* found that Nystrom determines the iterative decoding number (e.g., Y or Z) "according to the channel condition."

The controller of Nystrom determines the iterative decoding number at least in the sense of determining whether decoding is to be repeated a "Y" number of times or a "Z" number of times (Fig. 5), *according to the channel condition -- i.e., according to the quality of received transmissions* (col. 11, ll. 17-25).

(Decision 4, emphasis added.)

Appellants admit (Req. for Reh'g 4) that channel quality in Nystrom relates to the success of decoding, as discussed by Nystrom at column 11, lines 17 through 25. Appellants go on, however, to suggest that if Nystrom "analyzed" channel conditions to determine its numbers (Y or Z) it would have said so. As we indicated in the Decision, however, the fact that a reference does not use the precise terminology of a claim under review is not fatal to anticipation. One skilled in the art would appreciate that the need for further decoding steps directly relates to channel conditions, consistent with

Nystrom's description at column 11. The reference describes analyzing a condition of a receiving channel because determiner 44 (Nystrom Figs. 1 and 5) determines if a received transmission can be adequately decoded (meaning that channel conditions are of acceptable quality), or if additional decoding steps are required (meaning that channel conditions are of relatively poor quality). Subsequent to the initial analysis of whether a signal can be adequately decoded, determiner 44 next determines an iterative decoding number (e.g., Y or Z) consistent with that analysis.

Appellants seem to suggest (Req. for Reh'g 3) that the claims are thought to distinguish over "preset" iterative decoding numbers. We can assume that numbers Y and Z in Nystrom are "preset" in the sense that a number Y or a number Z is determined, during normal operation, by determiner 44 determining whether a "preset" number Y or a "preset" number Z is appropriate. If Appellants' remarks in the Request reflect a position that the claims distinguish over "preset" iterative decoding numbers, separate from considerations with respect to channel condition, Appellants do not point out where that argument was presented in the Appeal Brief or Reply Brief. In any event, we find nothing in representative claim 26 (or claim 12) that would preclude "preset" iterative decoding numbers.

CONCLUSION

In summary, we have granted Appellants' request for rehearing to the extent that we have reconsidered our decision sustaining the rejection of claims 12-16 and 26-28, but we decline to modify the decision in any way.

DENIED

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ce/clj

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