

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PASCAL AGIN

Appeal 2007-4437
Application 10/183,473
Technology Center 2600

Decided: June 26, 2008

Before ROBERT E. NAPPI, CARLA M. KRIVAK,
and KARL D. EASTHOM *Administrative Patent Judges*.

KRIVAK, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134 from a final rejection of claims 1-12. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

STATEMENT OF CASE

Appellant's claimed invention relates to managing processing resources in a mobile radio system where a first entity manages processing resources in a separate second entity (Spec. 12: 30-35) and the second entity signals to the first entity a resource model representing its processing capacities (Spec. 13: 1-2). The claims include a method, system and apparatus.

Claim 1, reproduced below, is representative of the subject matter on appeal.

1. A method of managing processing resources in a mobile radio system in which a first entity manages processing resources provided in a second entity which is separate from the first entity, method comprising:

signaling from the second entity to the first entity a resource model representing processing capacities of the second entity,

wherein at least one of the first and second entities is able to support different types of resource models corresponding to different representations of said processing capacities, and a protocol is provided enabling the first and second entities to use the same type of resource model.

REFERENCES

Nguyen	US 5,930,264	Jul. 27, 1999
Lupien	US 6,006,091	Dec. 21, 1999

Claim 1 stands rejected under 35 U.S.C. § 102(b) based upon the teachings of Lupien. Claims 1-12 stand rejected under 35 U.S.C. § 102(b) based upon the teachings of Nguyen.

Appellant contends that Lupien does not anticipate claim 1 (Br.10) and that Nguyen does not anticipate claims 1-12 (Br. 14).

ISSUES

Did the Examiner err in rejecting claim 1 under 35 U.S.C. § 102(b) as anticipated by Lupien?

Did the Examiner err in rejecting claims 1-12 under 35 U.S.C. § 102(b) as anticipated by Nguyen?

PRINCIPLES OF LAW

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros., Inc. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir.), *cert. denied*, 484 U.S. 827 (1987). The inquiry as to whether a reference anticipates a claim must focus on what subject matter is encompassed by the claim and what subject matter is described by the reference. As set forth by the court in *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 772 (Fed. Cir. 1983), *cert. denied*, 465 U.S. 1026 (1984), it is only necessary for the claims to “‘read on’ something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or ‘fully met’ by it.” While all elements of the claimed invention must appear in a single reference, additional references may be used to interpret the anticipating reference and to shed light on its meaning, particularly to those skilled in the art at the relevant time. *See Studiengesellschaft Kohle m.b.H. v. Dart Indus., Inc.*, 726 F.2d 724, 726-727 (Fed. Cir. 1984).

ANALYSIS

Lupien

The Examiner asserts that Lupien teaches all the limitations of claim 1. Specifically, the Examiner states Lupien teaches a method of managing processing resources in a mobile radio system that includes a first entity managing processing resources in a second entity (Abstract), signaling from the second to the first entity a resource model representing its processing capacities (col. 4, ll. 60-65; col. 6, table 1), “different types of first and/or second entities are provided and able to support different types of resource models corresponding to different representations of said processing capacities (column 1, lines 52-63), and an additional protocol is provided enabling the first and second entities to use the same type of resource model (column 2, lines 40-43...).” (Ans. 3-4).

As Appellant contends, Lupien is concerned with “[a] method in a cellular telecommunications network of informing the network of a plurality of operating capabilities of a mobile terminal” (Abstract). That is, Lupien is concerned with capability information and not managing processing resources (App. Br. 11). We further find that none of the mobile telephone capabilities shown in Table 1 (col. 6), as noted by the Examiner, teach or show a resource model representing processing capacities. Tables 2 and 3 (col. 7), which show mobile terminal capabilities and base station/mobile switching center capabilities, respectively, also do not show this feature of claim 1. Because Lupien does not teach every feature of claim 1, Lupien does not anticipate claim 1.

Nguyen

The Examiner asserts that Nguyen teaches all the limitations of claims 1-12. Specifically, the Examiner states Nguyen teaches a method of managing processing resources in a mobile radio system where a first entity manages processing resources provided in a second entity separate from the first entity (Abstract), “signaling from the second entity signals to the first entity a resource model representing its processing capacities of the second entity (column 2, lines 25-31-communications protocols and capabilities represent processing capacities),” at least one of the first and second entities is able to support different types of resource models corresponding to different representations of processing capacities (col. 2, ll. 28-45), and “a protocol is provided enabling the first and second entities to use the same type of resource model (column 2, lines 45-49).” (Ans. 4)

Appellant contends that Nguyen does not teach “the protocol initialization message identifies ‘a resource model representing processing capacities’” as called for in independent claim 1 (App. Br. 15). Appellant makes similar contentions for the similar limitations called for in independent claims 9-12. (Reply Br. 10-12). Nguyen teaches a protocol initialization message generated by an originating node of a communications network for transmission to cooperating nodes in a network (Abstract). The message identifies the communications, protocols and capabilities (industry standardized and proprietary) supported by the originating node (Abstract). There is no mention in column 2 of Nguyen of managing processing resources and providing a resource model representing processing capacities of a second entity. Rather, Nguyen merely teaches an “efficient, accurate and automated process...for implementing protocol

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initialization of a communications network” (col. 2, ll. 47-49). Because Nguyen does not teach every element of claims 1, and 9-12, Nguyen does not anticipate these claims, or claims 2-8 which depend from claim 1.

CONCLUSION

We therefore conclude that the Examiner erred in rejecting claims 1-12 under 35 U.S.C. § 102(b).

DECISION

The decision of the Examiner rejecting claims 1-12 is reversed.

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)(iv).

REVERSED

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