

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte AKINORI TSUBOUCHI

Appeal 2008-0111
Application 10/156,009
Technology Center 2600

Decided: July 7, 2008

Before KENNETH A. HAIRSTON, 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
claim 1. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

STATEMENT OF CASE

Appellant's claimed invention is a digital broadcasting system capable of making channel selection without making a user conscious of the difference between a physical channel number and a virtual channel number (Abstract). If an effective transmission signal from an initial channel selection processing mode (physical channel number) is not confirmed, the entered channel number is considered in the other mode (in this case) virtual channel number (Spec. ¶¶[0024-0025]).

Claim 1, reproduced below, is the only claim on appeal.

1. A digital broadcasting receiver for receiving digital broadcasting signals, the digital broadcasting receiver being operative to alternate between a first mode and a second mode for making a channel selection of digital processing,

wherein, under the first mode, the channel selection of digital broadcasting is made according to a physical channel number in which a frequency is assigned to a channel in accordance with a rule, said physical channel referencing a frequency band where television signals are embedded for transmission;

wherein, under the second mode, the channel selection of digital broadcasting is made according to a virtual channel number in which a frequency corresponds to a channel on the side of the receiver, said virtual channel recognized on the side of the receiver as the single entity that will provide access to one or more digital elementary streams, and

wherein either the first mode or the second mode is used as a basis to attempt to make the channel selection of digital broadcasting, considering the entered channel number as the virtual channel number when an effective transmission signal is not detected in the channel selection by the first mode on the basis of the entered channel number, while making an attempt to make channel selection of digital broadcasting, considering the entered channel number as a physical

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

The Examiner contends that Wasilewski teaches every element found in claim 1. The Examiner states that Wasilewski teaches a digital broadcasting receiver (Fig. 1 and decoder 10 that receives MPEG-2 digital broadcasting signals at tuner 12) (Ans. 3), the digital broadcasting receiver being operative to alternate between a first and second mode (Fig. 2-direct logical channel selection and Fig. 3-composite channel selection) (Ans. 4), and making a channel selection (col. 6, ll. 23-25) (Ans. 4). The Examiner further contends that Wasilewski also discloses under the first mode, the channel selection is made according to a physical channel number where a frequency is assigned to a channel (Fig. 2; col. 9, ll. 21-53) in accordance with a rule (col. 9, ll. 23-28) (Ans. 4) and the physical channel referencing a frequency band where television signals are embedded for transmission (Fig. 2) (Ans. 4). Further, Wasilewski teaches under the second mode the channel selection is made according to a virtual channel number (Fig. 3; col. 9, l. 54-col. 10, l. 57) (Ans. 4) in which a frequency corresponds to a channel on the side of the receiver and the virtual channel is recognized on the side of the receiver (Fig. 3) (Ans. 4) as the single entity that provides access to one or more digital elementary streams (Fig. 3) (Ans. 4). Finally, Wasilewski discloses that if either the first or second mode is used as a basis to make the channel selection (col. 5, ll. 42-45—CCI is equal to 1 or 0) (Ans. 5), considering the entered channel number as the virtual channel number when

an effective transmission signal is not detected in the channel selection by the first mode on the basis of the entered channel number, while making an attempt to make channel selection (Fig. 3) (Ans. 5), considering the entered channel number as a physical channel number when information for selecting a channel is not stored in the channel selection by the second mode on the basis of the entered channel number (Fig. 2—CCI is equal to 0) (Ans. 5).

Appellant asserts that the Examiner is incorrect because Wasilewski merely “discloses a simple mode-selection method based on the CCI flag bit (0 or 1)” (Reply Br. 5). In Wasilewski, the user selects either a direct channel (the CCI flag is a one) or a program (the CCI flag is a zero) (col. 6, ll. 23-25). That is, Wasilewski does not teach “either the first mode or the second mode is used as a basis to attempt to make the channel selection” as recited in claim 1. That is, in Appellant’s invention, the attempt is made considering the entered channel number as the virtual channel number (cl. 1; Fig. 4) when an effective transmission signal is not detected by the first mode on the basis of the entered channel number, while making an attempt to make channel selection considering the entered channel number as a physical channel number when information for selecting a channel is not stored in the channel selection by the second mode on the basis of the entered channel number (cl. 1; Fig. 3). Additionally, the receiver is “operative to alternate between the first mode and second mode for making channel selection” (cl. 1). Appellant argues that the above claim elements, when read in light of the Specification, are construed to mean that if either the first or second mode is selected, but the channel selection cannot be made by the channel number in the selected mode, the attempt at channel

selection in the other mode occurs automatically (Spec. ¶[0005]; Reply Br. 3). Thus, “Wasilewski never considers the entered channel number as the composite number if the direct logical channel tuning mode is selected (CCI=0) and never considers the entered channel number as the direct logical channel number if the composite channel tuning mode is selected (CCI=1).” (Reply Br. 5). That is, Wasilewski does not teach attempting to make a channel selection in another mode when the channel selection in a selected mode cannot be performed. We agree with Appellant that Wasilewski does not teach this feature.

Because Wasilewski does not teach every feature of claim 1, Wasilewski does not anticipate claim 1.

CONCLUSION

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

DECISION

The decision of the Examiner rejecting claim 1 is reversed.

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REVERSED

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