

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZTE CORPORATION and ZTE (USA) INC.,
Petitioner,

v.

INTERDIGITAL TECHNOLOGY CORPORATION,
Patent Owner.

Case IPR2014-00275
Patent 7,941,151 B2

Before SALLY C. MEDLEY, MIRIAM L. QUINN, and
BEVERLY M. BUNTING, *Administrative Patent Judges*.

BUNTING, *Administrative Patent Judge*.

DECISION

Denying Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

ZTE Corporation and ZTE (USA) INC. (“Petitioners”) filed a Petition requesting an *inter partes* review of claims 1-6, 8, 9, 16-21, 23, and 24 of U.S. Patent No. 7,941,151 (Ex. 1001, “the ’151 patent”) pursuant to 35 U.S.C. §§ 311-319. Paper 1 (“Pet”). Patent Owner, InterDigital Technology Corp. (“Patent Owner”), filed a Preliminary Response to the Petition on April 17, 2014. Paper 9. (“Prelim. Resp.”) We have jurisdiction under 35 U.S.C. § 314.

II. BACKGROUND

The standard for instituting an *inter partes* review is set forth in 35 U.S.C. § 314(a), which provides as follows:

THRESHOLD – The Director may not authorize an *inter partes* review to be instituted unless the Director determines that the information presented in the petition filed under section 311 and any response filed under section 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.

Petitioner asserts that claims 1-6, 8, 9, 16-21, 23, and 24 (i.e. “the challenged claims”) are unpatentable under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a).¹ Pet. 6.

Upon consideration of the Petition and Preliminary Response, we are not persuaded that there is a reasonable likelihood that Petitioner will prevail in establishing the unpatentability of the challenged claims. We,

¹ We do not consider Petitioner’s allegation that “InterDigital’s employees did not invent the subject matter” (Pet. 4) of the challenged claims of the ’151 patent, because such matters are not within our jurisdiction under 35 U.S.C. § 311(b). Pet. 1-4.

consequently, deny the Petition and do not institute an *inter partes* review of the '151 patent based on any of the asserted grounds.

A. Related Proceedings

Petitioner asserts that the '151 patent is the subject of the following judicial or administrative matters, *Certain Wireless Devices with 3G and/or 4G Capabilities and Components Thereof*, U.S.I.T.C Inv. No. 337-TA-868; *InterDigital Commc'ns Inc. v. Huawei Techs. Co., Ltd.*, Case No. 13-cv-00008-RGA (D. Del.), filed January 2, 2013; *InterDigital Commc'ns Inc. v. ZTE Corp.*, Case No. 13-cv-00009-RGA (D. Del.), filed January 2, 2013; *InterDigital Commc'ns Inc. v. Nokia Corp.*, Case No. 13-cv-00010-RGA (D. Del.), filed January 2, 2013; and *InterDigital Commc'ns Inc. v. Samsung Elec. Co. Ltd.*, Case No. 13-cv-00011-RGA (D. Del.), filed January 2, 2013. Pet. 4.

B. The '151 Patent (Ex. 1001)

The '151 patent describes a system and method of wireless communication that provides channel assignment information used to support an uplink shared channel ("UL") and a downlink shared channel ("DL"). Ex. 1001, 1:16-20. The system includes at least one Node-B or base station that dynamically allocates radio resources for both UL and DL transmissions from and to a wireless transmit/receive unit ("WTRU") via a common control channel. *Id.* at 2:19-29. The communication of radio resource assignment information between Node-B and the WTRU includes a specific indicator of whether the radio resource assignment is for either UL or DL transmission. *Id.* at 3:40-45. The WTRU is configured to determine

whether the transmission is for assigning UL or DL radio resource assignment. *Id.* at 3:48-50. In one embodiment, the specific indicator may be contained in one or more unused bits, referred to as the impossible code combinations, in the channelization code set mapping in the current High Speed Downlink Packet Access (HSDPA). *Id.* at 3:51-4:3. The system may also include a radio network controller (“RNC”) that controls Node-B to transmit a message to the WTRU indicating which time slots support UL channel transmission and which time slots support DL channel transmissions. *Id.* at 2:34-40.

Figure 1 of the '151 patent is reproduced below.

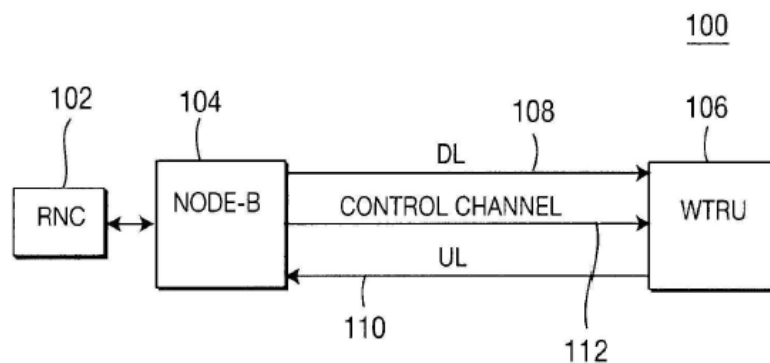


FIG. 1

Figure 1 depicts a wireless communication system showing communication between Node-B and the WTRU 106 via the control channel, DL, and UL. *Id.* at 3:24-29. The control channel transmits assignment information for both UL and DL transmissions to the WTRU from Node-B. *Id.* at 3:30-32. Downlink transmission from Node-B to the WTRU is transmitted via the DL, and uplink transmission from the WTRU to Node-B is transmitted via the UL. *Id.* at 3:26-32.

Figure 3 of the '151 patent is reproduced below.

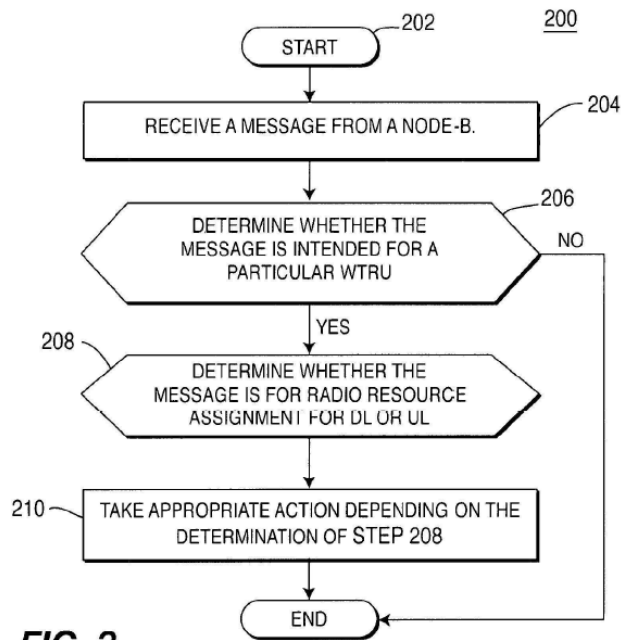


FIG. 3

Figure 3 depicts a flowchart that includes the steps of transmitting a message for radio resource assignment via the common control channel from Node-B to the WTRU, which receives and demodulates the message at step 204. *Id.* at 5:25-50. The WTRU then determines if the message is intended for the WTRU at step 206, and if the message is intended for the WTRU at step 206, another determination is made regarding whether the message is for the assignment of radio resources for DL transmission or UL transmission at step 208. *Id.* Depending on the determination made in step 208, the WTRU receives data via the DL channel or transmits data via the UL channel. *Id.*

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