UNITED STATES PATENT AND TRADEMARK OFFICE

_____

BEFORE THE PATENT TRIAL AND APPEAL BOARD

_____

T-MOBILE USA, INC. and T-MOBILE US, INC.,
Petitioner

v.

MOBILE TELECOMMUNICATIONS TECHNOLOGIES, LLC,
Patent Owner

_____

Case IPR2015-00015
Patent 5,915,210

_____

PATENT OWNER MOBILE TELECOMMUNICATIONS TECHNOLOGIES, LLC'S PRELIMINARY RESPONSE

Mail Stop "PATENT BOARD"
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

TABLE OF CONTENTS

Page

I. INTRODUCTION 1

II. BACKGROUND 2

III. PROPER CLAIM CONSTRUCTION 3

A. Construction of Independent Claim Terms 7

1. "representing substantially the same information as" of claims 1, 10, and 19 7

2. "transmit[] [the] second plurality of carrier signals in simulcast with the first plurality of carrier signals" of claims 1, 10, and 19 8

3. "each of the first plurality of carrier signals representing a portion of the information signal substantially not represented by others of the first plurality of carrier signals" of claims 1, 10, and 19 9

IV. SUMMARY OF ARGUMENTS 10

V. REFERENCES RELIED UPON BY PETITIONER 13

A. *Saalfrank* 13

B. *Nakamura* 14

C. *Witsaman* 15

D. *Bingham* 16

VI. GROUND 1 – CLAIMS 1 AND 10 ARE NOT ANTICIPATED BY *SAALFRANK* 16

A. *Saalfrank* does not disclose "not represented" limitation of elements 1(a) and 10(a). 16

B. *Saalfrank* does not disclose the "transmit . . . in simulcast" limitation of elements 1(b) and 10(b) 18

VII. GROUND 2 – CLAIM 19 IS NOT OBVIOUS OVER *SAALFRANK* IN VIEW OF *NAKAMURA*. 19

A. *Saalfrank* in view of *Nakamura* do not disclose "not represented" limitation of element 19(a) 19

DOCKET ALARM

Find authenticated court documents without watermarks at docketalarm.com.

1. *Saalfrank* does not disclose "not represented" limitation of element 19(a). 19

2. *Nakamura* does not disclose "not represented" limitation of element 19(a). 21

B. *Saalfrank* in view of *Nakamura* does not disclose "transmit . . . in simulcast" limitation of element 19(b).....22

VIII. GROUND 3 – CLAIMS 1, 10, AND 19 ARE NOT OBVIOUS OVER *WITSAMAN* IN VIEW OF *BINGHAM*.....23

A. *Witsaman* in view of *Bingham* do not disclose "not represented" limitation of elements 1(a), 10(a), and 19(a).....23

1. *Witsaman* does not disclose "not represented" limitation of elements 1(a), 10(a), and 19(a).....23

2. *Bingham* does not disclose "not represented" limitation of elements 1(a), 10(a), and 19(a).....24

IX. CONCLUSION.....27

DOCKET ALARM

Find authenticated court documents without watermarks at docketalarm.com.

TABLE OF AUTHORITIES

Page

CASES

Ex parte Frye, 94 USPQ 2d 1072 (BPAI 2010) 21, 26

Ex parte Papst-Motoren, 1 USPQ2d 1655 (Bd. Pat. App. & Inter. 1986) 4

Ex Parte Ronald A. Katz Tech. Licensing L.P., Appeal 2008-005127 (BPAI Mar. 15, 2010).....4

In re Am. Acad. of Sci. Tech. Ctr., 367 F.3d 1359, 70 USPQ2d 1827 (Fed. Cir. 2004) 5

In re Kahn, 441 F.3d 977 (Fed. Cir. 2006) 22, 26

In re Morris, 127 F.3d 1048, 44 USPQ2d 1023 (Fed. Cir. 1997) 5

In re Royka, 490 F.2d 981 (CCPA 1974) 19, 23, 25

KSR Int'l Co. v. Teleflex Inc., 550 U.S. 398 (2007) 22, 26

Phillips v. AWH Corp., 415 F.3d 1303 (Fed. Cir. 2005) 4, 5, 6, 8

Pitney Bowes, Inc. v. Hewlett-Packard Co., 182 F.3d 1298 (Fed. Cir. 1999).....6

Vitrionics Corp. v. Conceptronic, 90 F.3d 1576 (Fed. Cir. 1996).....5

OTHER AUTHORITIES

35 United States Code § 102.....2

35 United States Code § 103.....2

35 United States Code § 312(c) 3

37 Code of Federal Regulations § 42.104(b)(3) 3

Manual of Patent Examining Procedure § 2111.01 5

Manual of Patent Examining Procedure § 2558 4

DOCKET ALARM

Find authenticated court documents without watermarks at docketalarm.com.

I. INTRODUCTION

Patent Owner, Mobile Telecommunications Technologies, LLC, submits this Preliminary Response to the Petition for *Inter Partes* Review of claims 1, 10, and 19 of U.S. Patent No. 5,915,210 ("the '210 Patent"). 37 C.F.R. § 42.107.

Patent Owner respectfully requests that the Board deny the Petition on every ground alleged by Petitioner for, at least, the following reasons.

First, with regard to Ground 1, German Patent Publication No. DE4102408 (Exhibit 1008, "*Saalfrank*") does not disclose "each of the first plurality of carrier signals representing a portion of the information signal substantially not represented by others of the first plurality of carrier signals." Thus, claims 1 and 10 of the '210 Patent are not anticipated by *Saalfrank*.

Second, with regard to Ground 2, *Saalfrank* does not disclose "each of the first plurality of carrier signals representing a portion of the information signal substantially not represented by others of the first plurality of carrier signals" as recited in claim 19 of the '210 Patent. Nakamura et al., 256 QAM Modem for Multicarrier 400 Mbit/s Digital Radio, 5 IEEE Journal on Selected Areas in Communications 329 (Apr. 1987) (Exhibit 1009, "*Nakamura*") does not cure *Saalfrank's* defect and does not disclose or suggest these features. Thus, claim 19 of the '210 Patent is not obvious over *Saalfrank* in view of *Nakamura*.

DOCKET ALARM Find authenticated court documents without watermarks at docketalarm.com.

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.