

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA, INC.,
SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, and
SAMSUNG AUSTIN SEMICONDUCTOR, LLC,
Petitioner,

v.

REMBRANDT WIRELESS TECHNOLOGIES, LP,
Patent Owner.

Case IPR2014-00519
Patent 8,023,580 B2

Before JAMESON LEE, HOWARD B. BLANKENSHIP, and
JUSTIN BUSCH, *Administrative Patent Judges*.

BUSCH, *Administrative Patent Judge*.

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

I. INTRODUCTION

A. *Background*

Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., Samsung Telecommunications America, LLC, and Samsung Austin Semiconductor, LLC (collectively, “Petitioner”) filed an Amended Petition requesting an *inter partes* review of claims 23, 25, 29, 30, 32, 34, 38, 40, 41, 43, 44, and 47 (“the challenged claims”) of U.S. Patent No. 8,023,580 B2 (“the ’580 patent,” Ex. 1301) on April 3, 2014. Paper 4 (“Pet.”). Rembrandt Wireless Technologies, LP (“Patent Owner”) filed a Patent Owner Preliminary Response on July 3, 2014. Paper 14 (“Prelim. Resp.”). We have jurisdiction under 35 U.S.C. § 314.

Inter partes review may be instituted only if “there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314. Upon consideration of the Petition and the Patent Owner Preliminary Response, we conclude Petitioner has established a reasonable likelihood that it would prevail with respect to claims 32, 34, 38, 40, 43, 44, and 47 of the ’580 patent.

Accordingly, we institute an *inter partes* review of claims 32, 34, 38, 40, 43, 44, and 47.

B. *Related Proceedings*

Petitioner indicates that the ’580 patent was asserted against Petitioner in *Rembrandt Wireless Technologies, LP v. Samsung Electronics Co.*, No. 2:13-cv-00213 (E.D. Tex.). Pet. 1–2. The same parties and patent

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are involved in *Samsung Electronics Co. v. Rembrandt Wireless Technologies, LP*, Case IPR2014-00514 (PTAB); *Samsung Electronics Co. v. Rembrandt Wireless Technologies, LP*, Case IPR2014-00515 (PTAB); and *Samsung Electronics Co. v. Rembrandt Wireless Technologies, LP*, Case IPR2014-00518 (PTAB).

C. *The '580 Patent (Ex. 1301)*¹

The specification of the '580 patent describes “a data communications system in which a plurality of modulation methods are used to facilitate communication among a plurality of modem types.” Ex. 1301, 1:21–23. The '580 patent explains that the invention addresses a problem that conventional modem pairs can communicate successfully only when the modems use compatible modulation methods. *Id.* at 1:27–30, 1:45–47.

Of the challenged claims, claims 23, 32, and 40 are independent claims. Illustrative claim 23 is reproduced as follows:

23. A communications device, comprising:
a processor; and

a memory having stored therein executable instructions for execution by the processor, wherein the executable instructions direct transmission of a first data with a first modulation method followed by a second data with a second modulation method, wherein the first modulation method is different than the second modulation method, wherein the first data comprises an indication of an impending change from the first modulation method to the second modulation method, wherein the executable instructions direct transmission of a

¹ In our decision, we refer to the '580 patent by its original column and line numbers, not the page numbers inserted by the Petitioner.

third data with the first modulation method after the second data, and wherein the third data indicates that communication has reverted to the first modulation method.

D. Asserted Grounds of Unpatentability

Petitioner asserts the following grounds of unpatentability under 35 U.S.C. §§ 102 and 103:

Evidence	Basis	Challenged Claims
Boer ²	§ 102(e)	23, 25, 30, 32, 34, 40, 41, 43, and 44
Boer	§ 103(a)	23, 25, 30, 32, and 34
Boer and APA ³	§ 103(a)	29, 38, and 47

II. ANALYSIS

A. Claim Construction

Petitioner and Patent Owner each propose a construction of “first modulation method” and “second modulation method.” However, we do not construe any term at this time because no term needs to be construed for purposes of this decision.

B. Asserted Grounds Based on Boer

1. Overview of Boer (Ex. 1304)

Boer discloses “a method of operating a wireless local area network station adapted to transmit and receive messages at a plurality of data rates.”

² U.S. Patent No. 5,706,428 (filed Mar. 14, 1996, issued Jan. 6, 1998) (Ex. 1304) (“Boer”).

³ Petitioner alleges that Figures 1 and 2 of the ’580 patent and the accompanying descriptions are admitted prior art. Pet. 37–38 (citing Ex. 1301, Figs. 1, 2, 2:16–20, 3:40–46) (“APA”).

Ex. 1304, 1:34–36. Boer’s local area network stations “may be data processing devices (such as PCs) having a wireless communication ability.” *Id.* at 1:13–15. Boer’s mobile stations may modulate the carrier signals using differential binary phase shift keying (“DBPSK”) modulation when communicating at 1 Megabit per second (“Mbps”) and differential quadrature phase shift keying (“DQPSK”) modulation when communicating at 2 Mbps. *Id.* at 2:16–27. Boer further discloses that other mobile stations in the system also may be capable of operating at 5 or 8 Mbps by modulating the carrier signals using pulse position modulation—DQPSK (“PPM/DQPSK”). *Id.* at 2:34–43. Boer discloses that a typical message includes various fields, including “signal,” “service,” “length,” and “CRC” fields (collectively referred to as a header) and a “data” field. *Id.* at 3:42–54. Boer further explains that the “header [is] always transmitted at the 1 Mbps rate using DBPSK modulation [and t]he subsequent DATA field . . . may be transmitted at a selected one of the four possible rates 1, 2, 5 or 8 Mbps, using the modulation and coding discussed hereinabove.” *Id.* at 3:57–62.

2. *Analysis of Asserted Anticipation Grounds of Claims 23, 25, and 30 Based on Boer*

Petitioner argues Boer discloses each limitation of independent claim 23 and provides claim charts, specifying where each of the limitations is described in Boer. Pet. 12–24. Petitioner argues Boer’s communication system is comprised of stations communicating with each other using different modulation methods, and that each of the stations may be a PC,

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