

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARRIS GROUP, INC.,
Petitioner

v.

MOBILE TELECOMMUNICATIONS TECHNOLOGIES, LLC
Patent Owner

Case IPR2016-00765
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

TABLE OF CONTENTS

	<u>Page</u>
I. BACKGROUND	1
II. INTRODUCTION	1
III. PROPER CLAIM CONSTRUCTION	3
A. Rules Governing Claim Construction	4
1. Person of Ordinary Skill in the Art	4
2. Precise Statement on Claim Construction	4
3. New Testimonial Evidence Allowed	5
4. <i>Phillips</i> Standard Governs	6
i. Look to Claims Themselves and Then Specification	6
ii. Can Read Specification Limitations into Claims	7
iii. Can Rely on Extrinsic Evidence	7
5. Samsung IPR Construction of “Substantially”	8
B. Construction of Independent Claim Terms	11
1. “representing substantially the same information as” of claims 1, 10, and 19	11
2. “transmit[] [the] second plurality of carrier signals in simulcast with the first plurality of carrier signals” of claims 1, 10, and 19	12
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	14
i. No Redundancy Limitation	14
ii. Meaning of “substantially”	15
IV. SUMMARY OF ARGUMENTS	20
V. REFERENCES RELIED UPON BY PETITIONER	24
A. <i>Saalfrank</i>	24

	B.	<i>Nakamura</i>	.....	24	
VI.	GROUND 1 – CLAIMS 1, 10 AND 19 ARE NOT ANTICIPATED BY <i>SAALFRANK</i> .				25
	A.	<i>Saalfrank</i> does not disclose the non-redundancy limitation of elements 1(a), 10(a), and 19(a).	.....	25	
	B.	<i>Saalfrank</i> does not disclose the “transmit . . . in simulcast” limitation of elements 1(b), 10(d), and 19(b).	.....	31	
VII.	GROUND 2 – CLAIM 19 IS NOT OBVIOUS OVER <i>SAALFRANK</i> IN VIEW OF <i>NAKAMURA</i> .				33
	A.	<i>Saalfrank</i> in view of <i>Nakamura</i> does not disclose the non- redundancy limitation of element 19(a).	.....	33	
		1.	<i>Saalfrank</i> does not disclose the non-redundancy limitation of element 19(a).	.....	34
		2.	<i>Nakamura</i> does not disclose the non-redundancy limitation of element 19(a).	.....	34
	B.	<i>Saalfrank</i> in view of <i>Nakamura</i> does not disclose the “transmit in simulcast” limitation of element 19(b).	.....	36	
VIII.	CONCLUSION.				37

TABLE OF AUTHORITIES

Page

CASES

<i>Ex parte Frye</i> , 94 USPQ 2d 1072 (BPAI 2010)	35
<i>Ex Parte Lazzara</i> , Appeal No. 2007-0192 (BPAI Nov. 13, 2007).....	9, 10, 15, 16
<i>Ex parte Papst-Motoren</i> , 1 USPQ2d 1655 (Bd. Pat. App. & Inter. 1986)	6
<i>Ex Parte Ronald A. Katz Tech. Licensing L.P.</i> , Appeal 2008-005127 (BPAI Mar. 15, 2010).....	6
<i>In re Am. Acad. of Sci. Tech. Ctr.</i> , 367 F.3d 1359, 70 USPQ2d 1827 (Fed. Cir. 2004)	7
<i>In re Kahn</i> , 441 F.3d 977 (Fed. Cir. 2006)	35
<i>In re Morris</i> , 127 F.3d 1048, 44 USPQ2d 1023 (Fed. Cir. 1997)	7
<i>In re Royka</i> , 490 F.2d 981 (CCPA 1974)	33
<i>KSR Int’l Co. v. Teleflex Inc.</i> , 550 U.S. 398 (2007)	35
<i>Phillips v. AWH Corp.</i> , 415 F.3d 1303 (Fed. Cir. 2005)	passim
<i>Pitney Bowes, Inc. v. Hewlett-Packard Co.</i> , 182 F.3d 1298 (Fed. Cir. 1999).....	8
<i>Vitrionics Corp. v. Conceptronic</i> , 90 F.3d 1576 (Fed. Cir. 1996).....	6

OTHER AUTHORITIES

35 United States Code § 102.....	1
35 United States Code § 103	1
35 United States Code § 312(c)	4
37 C.F.R. § 42.107	5
37 C.F.R. § 42.208(c).....	6
37 Code of Federal Regulations § 42.104(b)(3)	4
Manual of Patent Examining Procedure § 2111.01	7
Manual of Patent Examining Procedure § 2558	6

PATENT OWNER EXHIBIT LIST

- 2001. Declaration of Dr. Jay P. Kesan.
- 2002. Tutorial from www.radio-electronics.com on OFDM orthogonal frequency division multiplexing
- 2003. Excerpts from the book entitled “Multi-carrier technologies for wireless communication” by Nassar *et al.*
- 2004. A technical report on the guidelines and rules for implementation and operation of DAB from the European Telecommunications Standards Institute (ETSI) in the year 2000.
- 2005. Excerpts from the book entitled “Digital audio broadcasting: principles and applications of DAB, DAB+ and DMB” by Hoeg *et al.*
- 2006. A publication entitled “DAB radio design and implementation” by Fredrik Forsberg of Chalmers University of Technology in Goteborg, Sweden.

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.