

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC. AND LG ELECTRONICS, INC.,¹
Petitioner,

v.

UNILOC 2017 LLC,
Patent Owner.

IPR2019-00510
Patent 6,868,079 B1

Before SALLY C. MEDLEY, JEFFREY S. SMITH, and GARTH D. BAER,
Administrative Patent Judges.

MEDLEY, *Administrative Patent Judge.*

JUDGMENT
Final Written Decision
Determining Challenged Claim Unpatentable
35 U.S.C. § 318(a)

¹ Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (collectively “Samsung”) were terminated from the proceeding. Paper 20.

I. INTRODUCTION

Apple Inc., LG Electronics, Inc., Samsung Electronics Co., Ltd., and Samsung Electronics America, Inc. (collectively “Petitioner”) filed a Petition for *inter partes* review of claims 17 and 18 of U.S. Patent No. 6,868,079 B1 (Ex. 1001, “the ’079 patent”). Paper 2 (“Pet.”). Uniloc 2017 LLC (“Patent Owner”) filed a Preliminary Response. Paper 6 (“Prelim. Resp.”). Upon consideration of the Petition and Preliminary Response, we instituted *inter partes* review, pursuant to 35 U.S.C. § 314, as to claims 17 and 18 based on all challenges set forth in the Petition. Paper 7 (“Decision to Institute” or “Dec.”).

Subsequent to institution, Patent Owner filed a Patent Owner Response (Paper 9, “PO Resp.”), Petitioner filed a Reply to Patent Owner’s Response (Paper 10, “Pet. Reply”), and Patent Owner filed a Sur-reply (Paper 11, “Sur-reply”). On April 23, 2020, we held an oral hearing. A transcript of the hearing is of record. Paper 17 (“Tr.”).

On May 15, 2020, Petitioner filed an unopposed request to withdraw the challenges set forth in the Petition with respect to claim 18. Ex. 3001. In essence, Petitioner requests removal of the challenges to claim 18 from the Petition as if claim 18 was never challenged. *Id.* We *grant* Petitioner’s request. We modify our Decision to Institute to institute *inter partes* review, pursuant to 35 U.S.C. § 314, as to only claim 17 based on all challenges set forth in the Petition.

On June 8, 2020, we granted the parties’ joint motion to terminate the proceeding with respect to Samsung. Paper 20.

In our Scheduling Order, we notified the parties that “any arguments not raised in the [Patent Owner] response may be deemed waived.” *See* Paper 8, 7; *see also* Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756,

48,766 (Aug. 14, 2012) (“The patent owner response . . . should identify all the involved claims that are believed to be patentable and state the basis for that belief.”). Patent Owner argues that it “does not concede, and specifically denies, that there is any legitimacy to any arguments in the instant Petition that are not specifically addressed” in its Patent Owner Response. PO Resp. 19 n.9. We decline to speculate as to what Patent Owner considers is not legitimate in the Petition. Any arguments for patentability not raised in the Patent Owner Response are deemed waived.

For the reasons that follow, we conclude that Petitioner has proven by a preponderance of the evidence that claim 17 of the ’079 patent is unpatentable.

A. Related Matters

Petitioner and Patent Owner indicate that the ’079 patent is the subject of several court proceedings. Pet. 78–79; PO Resp. 3. The ’079 patent also is the subject of Board proceeding IPR2020-00038. IPR2020-00038 was filed by Motorola Mobility LLC and institution was granted. *See Motorola Mobility LLC, v. Uniloc 2017 LLC*, IPR2020-00038, Paper 9 (PTAB April 13, 2020).

B. The ’079 Patent

The ’079 patent describes “a method of operating a radio communication system,” where the radio communication system is “required to be able to exchange [signaling] messages between a Mobile Station (MS) and a Base Station (BS).” Ex. 1001, 1:7–8, 1:18–20. The ’079 patent further describes that an object of the invention “is to improve the efficiency of the method by which a MS requests resources from a BS.” *Id.* at 1:56–58. The ’079 patent describes a secondary station (*i.e.*, MS) transmitting a

request for resources to a primary station (*i.e.*, BS) in a time slot allocated to the secondary station, where the secondary station re-transmits the request in at least a majority of its allocated time slots until an acknowledgment is received from the primary station. *Id.* at 1:60–67. Because there is no possibility of requests from different secondary stations colliding, a secondary station can re-transmit requests in each allocated time slot. *Id.* at 2:3–5. Further, the primary station can improve the accuracy with which it determines whether a request was sent by a particular secondary station if the received signal strength is close to the detection threshold by examining the received signals in multiple time slots allocated to the secondary station in question. *Id.* at 2:9–14.

An example radio communication system is illustrated in Figure 1, reproduced below.

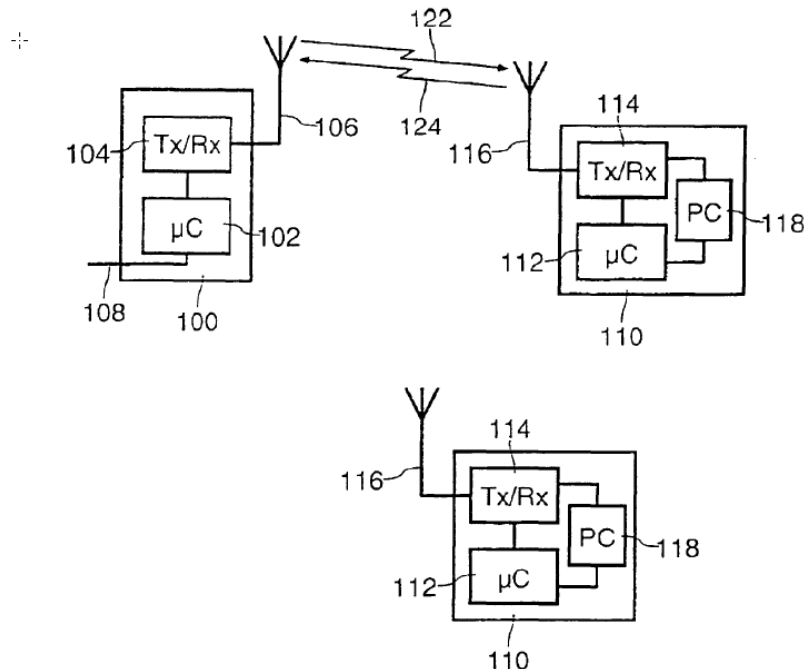


FIG. 1

Figure 1 is a block diagram of a radio communication system comprising a primary station (BS) 100 and a plurality of secondary stations (MS 110). *Id.* at 3:10–12. Communication from BS 100 to MS 110 takes place on downlink channel 122, while communication from MS 110 to BS 100 takes place on uplink channel 124. *Id.* at 3:19–21.

C. Challenged Claim

Petitioner challenges independent claim 17 of the '079 patent. Claim 17 is reproduced below.

17. A method of operating a radio communication system, comprising:

allocating respective time slots in an uplink channel to a plurality of respective secondary stations; and

transmitting a respective request for services to establish required services from at least one of the plurality of respective secondary stations to a primary station in the respective time slots;

wherein the at least one of the plurality of respective secondary stations re-transmits the same respective request in consecutive allocated time slots without waiting for an acknowledgement until said acknowledgement is received from the primary station,

wherein the primary station determines whether a request for services has been transmitted by the at least one of the plurality of respective secondary stations by determining whether a signal strength of the respective transmitted request of the at least one of the plurality of respective secondary stations exceeds a threshold value.

Ex. 1001, 8:12–33.

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.