

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 IPR2014-00518
Patent 8,023,580 B2

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

BLANKENSHIP, *Administrative Patent Judge*.

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

I. BACKGROUND

Samsung Electronics Co. Ltd., Samsung Electronics America, Inc.,
Samsung Telecommunications America, LLC, and Samsung Austin

IPR2014-00518
Patent 8,023,580 B2

Semiconductor, LLC (collectively, “Petitioner”) request *inter partes* review of claims 1, 2, 4, 5, 10, 13, 19–22, 49, 52–54, 57–59, 61, 62, 66, 70, and 76–79 of U.S. Patent No. 8,023,580 B2 (“the ’580 patent,” Ex. 1201) under 35 U.S.C. §§ 311–319. Paper 4 (Corrected Petition or “Pet.”). Rembrandt Wireless Technologies, LP (Patent Owner) filed a preliminary response (Paper 14, “Prelim. Resp.”) under 37 C.F.R. § 42.107. We have jurisdiction under 35 U.S.C. § 314.

For the reasons that follow, we institute an *inter partes* review of claims 1, 4, 5, 10, 13, 20–22, 54, 57, 58, 61, 62, 66, 70, and 76–79 of the ’580 patent. We do not institute review of challenged claims 2, 19, 49, 52, 53, and 59.

Related Proceedings

According to Petitioner, the ’580 patent is involved in the following lawsuit: *Rembrandt Wireless Technologies, LP v. Samsung Electronics Co. Ltd.*, No. 2:13-cv-00213 (E.D. Tex. 2013). Pet. 2. The ’580 patent also has been challenged in the following cases: *Samsung Electronics Company, Ltd v. Rembrandt Wireless Technologies, LP* , IPR2014-00514; *Samsung Electronics Company, Ltd v. Rembrandt Wireless Technologies, LP* , IPR2014-00515; and *Samsung Electronics Company, Ltd v. Rembrandt Wireless Technologies, LP*, IPR2014-00519.

The ’580 Patent

The ’580 Patent issued from an application filed August 19, 2009, which claimed priority under 35 U.S.C. § 120 through a chain of intervening applications to an application filed December 4, 1998, and which further

claimed priority under 35 U.S.C. § 119 to a provisional application filed December 5, 1997.

The technical field of the patent relates to data communications and modulators/demodulators (modems), and in particular to a data communications system in which a plurality of modems use different types of modulation in a network. Ex. 1201, col. 1, ll. 19–23; col. 1, l. 56 – col. 2, l. 20.

Illustrative Claim

1. A communication device capable of communicating according to a master/slave relationship in which a slave communication from a slave to a master occurs in response to a master communication from the master to the slave, the device comprising:

a transceiver, in the role of the master according to the master/slave relationship, for sending at least transmissions modulated using at least two types of modulation methods, wherein the at least two types of modulation methods comprise a first modulation method and a second modulation method, wherein the second modulation method is of a different type than the first modulation method, wherein each transmission comprises a group of transmission sequences, wherein each group of transmission sequences is structured with at least a first portion and a payload portion wherein first information in the first portion indicates at least which of the first modulation method and the second modulation method is used for modulating second information in the payload portion, wherein at least one group of transmission sequences is addressed for an intended destination of the payload portion, and wherein for the at least one group of transmission sequences:

the first information for said at least one group of transmission sequences comprises a first sequence, in the first

portion and modulated according to the first modulation method, wherein the first sequence indicates an impending change from the first modulation method to the second modulation method, and

the second information for said at least one group of transmission sequences comprises a second sequence that is modulated according to the second modulation method, wherein the second sequence is transmitted after the first sequence.

Prior Art

Boer US 5,706,428 Jan. 6, 1998 (Ex. 1204)

Asserted Ground of Unpatentability

Petitioner asserts the following ground of unpatentability as to claims 1, 2, 4, 5, 10, 13, 19–22, 49, 52–54, 57–59, 61, 62, 66, 70, and 76–79 (Pet. 2–3): obviousness under 35 U.S.C. § 103(a) over Admitted Prior Art (“APA”) and Boer.

II. ANALYSIS

Claim Interpretation

In an *inter partes* review, the Board construes claim terms in an unexpired patent using their broadest reasonable construction in light of the specification of the patent in which they appear. 37 C.F.R. § 42.100(b); Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,766 (Aug. 14, 2012). The claim language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). The Office must apply the broadest reasonable meaning to the claim language, taking into

account any definitions presented in the specification. *Id.* (citing *In re Bass*, 314 F.3d 575, 577 (Fed. Cir. 2002)). There is a “heavy presumption” that a claim term carries its ordinary and customary meaning. *CCS Fitness, Inc. v. Brunswick Corp.*, 288 F.3d 1359, 1366 (Fed. Cir. 2002). The “ordinary and customary meaning” is that which the term would have to a person of ordinary skill in the art in question. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007).

Types of Modulation Methods

Each of claims 1 and 58 recites a transceiver capable of transmitting using at least two types of modulation methods, “wherein the at least two types of modulation methods comprise a first modulation method and a second modulation method, wherein the second modulation method is of a different type than the first modulation method”

Petitioner submits that the ordinary meaning of “modulation” is “[t]he process by which some characteristic of a carrier is varied in accordance with a modulating wave.” Pet. 11 (quoting Ex. 1206, 3 (technical dictionary)). Petitioner contends that a “first modulation method” should be interpreted as “*a process of varying characteristic(s) of a carrier wave that is different from a second modulation method,*” and a “second modulation method” should be interpreted as “*a process of varying characteristic(s) of a carrier wave that is different from a first modulation method.*” Pet. 13. Petitioner submits that, in essence, such an interpretation extends to modulation methods that are known to be incompatible with each other. *Id.* at 12.

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