UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE PATENT TRIAL AND APPEAL BOARD
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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 IPR2014-00889
Patent 8,457,228 B2
_____

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

BLANKENSHIP, *Administrative Patent Judge.*

DECISION
Denying 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

Rembrandt Wireless

Semiconductor, LLC (collectively, "Petitioner") request *inter partes* review of claims 1–3, 5, 10 and 11–21 of U.S. Patent No. 8,457,228 B2 ("the '228 patent") (Ex. 1001) under 35 U.S.C. §§ 311–319. Paper 2 (Petition, or "Pet."). Rembrandt Wireless Technologies, LP (Patent Owner) filed a preliminary response (Paper 6, "Prelim. Resp.") provided by 37 C.F.R. § 42.107. We have jurisdiction under 35 U.S.C. § 314.

For the reasons that follow, we do not institute an *inter partes* review as to any of the challenged claims of the '228 patent.

Related Proceeding

According to Petitioner, the '228 patent is involved in the following lawsuit: *Rembrandt Wireless Technologies, LP v. Samsung Electronics Company*, No. 2:13-cv-00213 (E.D. Tex. 2013). Pet. 1. The '228 patent has also been challenged in the following cases: IPR2014–00890; IPR2014–00891; IPR2014–00892; IPR2014–00893; and IPR2014–00895.

The '228 Patent

The '228 patent issued from an application filed August 4, 2011, which claimed priority, through a chain of intervening applications, under 35 U.S.C. § 120 to an application filed December 4, 1998, and which 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. 1001, col. 1, ll. 21–25; col. 1, l. 58–col. 2, l. 23.

Illustrative Claim

Claim 1 is illustrative.

1. A master communication device configured to communicate with one or more slave transceivers according to a master/slave relationship in which a slave communication from a slave device to the master communication device occurs in response to a master communication from the master communication device to the slave device, the master communication device comprising:

a master transceiver configured to transmit a first message over a communication medium from the master transceiver to the one or more slave transceivers, wherein the first message comprises:

first information modulated according to a first modulation method,

second information, including a payload portion, modulated according to the first modulation method, wherein the second information comprises data intended for one of the one or more slave transceivers and

first message address information that is indicative of the one of the one or more slave transceivers being an intended destination of the second information; and

said master transceiver configured to transmit a second message over the communication medium from the master transceiver to the one or more slave transceivers wherein the second message comprises:

third information modulated according to the first modulation method, wherein the third information comprises information that is indicative of an impending change in modulation to a second modulation method, and

fourth information, including a payload portion, transmitted after transmission of the third information, the fourth information being modulated according to the second

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modulation method, the second modulation method being of a different type than the first modulation method, wherein the fourth information comprises data intended for a single slave transceiver of the one or more slave transceivers, and

second message address information that is indicative of the single slave transceiver being an intended destination of the fourth information; and

wherein the second modulation method results in a higher data rate than the first modulation method.

Prior Art and Other Evidence Included with Petition

Boer et al. ("Boer")	US 5,706,428	Jan. 6, 1998 (Ex. 1006)
Siwiak	US 5,537,398	July 16, 1996 (Ex. 1007)

IEEE P802.11, *Draft Standard for Wireless LAN, Medium Access Control (MAC) and Physical Layer (PHY) Specification*, P802.11D4.0, May 20, 1996 (Ex. 1004) ("Draft Standard")

Declaration of Robert O'Hara, Mar. 11, 2014 (Ex. 1023).

Asserted Grounds of Unpatentability

Petitioner asserts the following grounds of unpatentability (Pet. 2–3):

Evidence	Basis (35 U.S.C.)	Claims
Draft Standard	§ 102(b)/103(a)	1–3, 5, 10, and 11–20
Draft Standard and Boer	§ 103(a)	1–3, 5, 10, and 11–20

Evidence	Basis (35 U.S.C.)	Claims
Draft Standard and APA[1] or Siwiak	§ 103(a)	21
Draft Standard and APA, Siwiak, or Boer	§ 103(a)	21

II. ANALYSIS

A. Asserted Anticipation and Obviousness Grounds Based on Draft Standard

The dispositive issue in this proceeding is whether Draft Standard, on which both of Petitioner's asserted grounds of unpatentability rely, is a printed publication.

B. Overview of Draft Standard (Ex. 1004)

Draft Standard is an unapproved draft of a proposed IEEE (Institute of Electrical and Electronics Engineers) Standard. Ex. 1004, i.[2] The purpose of the proposed standard was "[t]o provide wireless connectivity to automatic machinery, equipment [, or] stations that require rapid deployment, which may be portable, or hand-held or which may be mounted on moving vehicles within a local area" and "[t]o offer a standard for use by regulatory bodies to standardize access to one or more frequency bands for the purpose of local area communication." *Id.* at 1.

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[1] Admitted prior art.

[2] In this Decision, we refer to the original pagination of Draft Standard rather than the Exhibit page number.

Rembrandt Wireless

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