

Present: **Honorable JOSEPHINE L. STATON, UNITED STATES DISTRICT JUDGE**

Terry Guerrero
Deputy Clerk

N/A
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF: ATTORNEYS PRESENT FOR DEFENDANT:

Not Present

Not Present

**PROCEEDINGS: (IN CHAMBERS) ORDER DENYING DEFENDANTS' MOTION
TO DISMISS (Doc. 52)**

Before the Court is Defendants' Motion to Dismiss. (Mot., Doc. 52.) Plaintiff opposed. (Opp., Doc. 61.) Defendants replied. (Reply, Doc. 62.) For the reasons given below, the Court DENIES the Motion.¹

I. Background

Plaintiff is the owner of United States Patent No. 8,023,580 (the "'580 Patent") and United States Patent No. 8,457,228 (the "'228 Patent") (collectively, the "Asserted Patents"). (Compl., Doc. 1 ¶ 2; '580 Patent, Doc. 61-2; '228 Patent, Doc. 61-3.) The Asserted Patents describe roughly the same technology—indeed, they are identically titled: "System and Method of Communication Using at Least Two Modulation Methods." ('580 Patent col. 1 ll. 1-3; '228 Patent col. 1 ll. 1-3.)

As described in the specifications of the Asserted Patents, transceivers in existing communications systems can effectively communicate with one another only if both are using the same modulation method. ('580 Patent col. 1 ll. 27-30; '228 Patent col. 1 ll. 29-32.) Hence, data transmission sessions begin by negotiating and establishing a common

¹ The Court finds this matter appropriate for decision without oral argument. Fed. R. Civ. P. 78; C.D. Cal. R. 7-15. Accordingly, the hearing set for August 23, 2019, at 10:30 a.m., is VACATED.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. 8:19-cv-00708-JLS-JDE

Date: August 22, 2019

Title: Rembrandt Wireless Technologies, LP et al. v. Broadcom Incorporated et al.

modulation method. ('580 Patent col. 1 ll. 36-39; '228 Patent col. 1 ll. 38-41.) Some transceivers are compatible with multiple modulations methods, but some require a certain modulation method; therefore, where a system is comprised of a master transceiver transmitting various data packets to multiple tributary transceivers, impediments arise if the various tributary receivers require distinct modulation methods.² ('580 Patent col. 1 ll. 56-67, col. 2 ll. 1-15; '228 Patent col. 1 ll. 58-67, col. 2 ll. 1-18.) Particularly, even if the master transceiver itself is compatible with all modulation methods required by each of the tributary receivers, it is inefficient to renegotiate the modulation method to be used for each new transmission; time is wasted between each session as the master transceiver makes futile connection attempts with incompatible tributary receivers as it reaches out seeking to connect with the next compatible tributary receiver. ('580 Patent col. 1 ll. 56-65; '228 Patent col. 1 ll. 58-67.)

The Asserted Patents aim to alleviate these inefficiencies in multi-transceiver systems by creating a system in which all transmissions begin with a “first” modulation method, but prefatory information sent via such first method may indicate a switch to a “second” modulation method. ('580 Patent col. 2 ll. 24-51; '228 Patent col. 2 ll. 48-63.) If so, tributary transceivers compatible with only the first modulation method may be instructed by such prefatory information to standby until further notice; the master transceiver may then transmit data to compatible tributary transceivers according to the second modulation method without interfering connection attempts from incompatible tributary receivers. ('580 Patent col. 5 ll. 57-67, col. 6 ll. 1-15; '228 Patent col. 6 ll. 14-

² The Asserted Patents describe a multipoint system with two types of transceivers: a command-issuing “master” transceiver and command-receiving “slave” or “tributary” transceivers. The Court notes that the “master/slave” terminology often used to describe the relationship between technological devices is both unnecessary and inaccurate. The relationship is based on issuing and receiving commands, not ownership. If patent drafters wish to illustrate such a relationship anthropomorphically, perhaps they could use military jargon. To avoid confusion, the Court will use the “slave” descriptor when quoting from Asserted Patents or the parties’ other submissions. Otherwise, the Court will use the “tributary” descriptor. In this, our country’s 400th year after the slave trade began, the Court encourages future patent drafters to move away from the “master/slave” metaphor and adopt a more appropriate term of art. *See generally* Ron Eglash, *Broken Metaphor: The Master-Slave Analogy in Technical Literature*, 48 *Technology and Culture* 360 (2007).

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. 8:19-cv-00708-JLS-JDE

Date: August 22, 2019

Title: Rembrandt Wireless Technologies, LP et al. v. Broadcom Incorporated et al.

44.) At the end of the transmission via the second modulation method, trailing information may be sent according the first modulation method to notify the standing-by tributaries that the second modulation method session is ended. ('580 Patent col. 6 ll. 16-29; '228 Patent col. 6 ll. 45-58.) By this protocol, a single transmission session from the master efficiently negotiates standby and reactivation of non-compatible tributary transceivers while accomplishing an intervening delivery of data to compatible transceivers.

This system and method is described by the following claims at issue (collectively, the "Claims"):³

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

³ The Complaint asserts only dependent claims 2 and 59 of the '580 Patent and dependent claim 21 of the '228 Patent. Although not asserted themselves, claims 1 and 58 of the '580 Patent and claim 1 of the '228 Patent are the independent claims on which the asserted claims are based and are therefore also at issue for purposes of this Motion.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. 8:19-cv-00708-JLS-JDE

Date: August 22, 2019

Title: Rembrandt Wireless Technologies, LP et al. v. Broadcom Incorporated et al.

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.

2. The device of claim 1, wherein the transceiver is configured to transmit a third sequence after the second sequence, wherein the third sequence is transmitted in the first modulation method and indicates that communication from the master to the slave has reverted to the first modulation method.

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

a transceiver, in the role of the master according to the master/slave relationship, 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, and wherein the transceiver is configured to transmit messages with:

a first sequence, in the first modulation method, that indicates at least which of the first modulation method and the second modulation method is used for modulating a second sequence, wherein, in at least one message, the first sequence indicates an impending change from the first modulation method to the second modulation method, and wherein the at least one message is addressed for an intended destination of the second sequence, and

the second sequence, modulated in accordance with the modulation method indicated by the first sequence and, in the at least one message, modulated using the second modulation method, wherein the second sequence is transmitted after the first sequence.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. 8:19-cv-00708-JLS-JDE

Date: August 22, 2019

Title: Rembrandt Wireless Technologies, LP et al. v. Broadcom Incorporated et al.

59. The device of claim 58, wherein the transceiver is configured to transmit a third sequence after the second sequence, wherein the third sequence is transmitted in the first modulation method and indicates that communication from the master to the slave has reverted to the first modulation method.

(’580 Patent col. 7 ll. 53-67, col. 8 ll. 1-24, col. 11 ll. 51-67, col. 12 ll. 1-17.)

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 modulation method, the second modulation method being of a different type than the first modulation

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.