

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

TELEFONAKTIEBOLAGET LM ERICSSON,
Patent Owner.

IPR2022-00338
Patent 8,995,357 B2

Before SALLY C. MEDLEY, STEVEN M. AMUNDSON, and
STEPHEN E. BELISLE, *Administrative Patent Judges*.

AMUNDSON, *Administrative Patent Judge*.

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

Apple Inc. (“Petitioner”) filed a Petition requesting an *inter partes* review of claims 1–4, 6–10, 12, 14–17, and 19–24 in U.S. Patent No. 8,995,357 B2 (Exhibit 1001, “the ’357 patent”) under 35 U.S.C. §§ 311–319. Paper 2 (“Pet.”). Telefonaktiebolaget LM Ericsson (“Patent Owner”) filed a Preliminary Response. Paper 6 (“Prelim. Resp.”).

Under 37 C.F.R. § 42.4(a), we have authority to determine whether to institute an *inter partes* review. We may institute an *inter partes* review only if “the information presented in the petition filed under section 311 and any response filed under section 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a) (2018). The “reasonable likelihood” standard is “a higher standard than mere notice pleading” but “lower than the ‘preponderance’ standard to prevail in a final written decision.” *Hulu, LLC v. Sound View Innovations, LLC*, IPR2018-01039, Paper 29 at 13 (PTAB Dec. 20, 2019) (precedential).

Based on the current record and for the reasons explained below, Petitioner has shown that there is a reasonable likelihood that it would prevail with respect to at least one of the challenged claims. Thus, we institute an *inter partes* review of claims 1–4, 6–10, 12, 14–17, and 19–24 in the ’357 patent on all challenges included in the Petition.

II. BACKGROUND

A. *Real Parties in Interest*

Petitioner identifies itself as the real party in interest. Pet. 83. Patent Owner identifies the following real parties in interest: Telefonaktiebolaget

IPR2022-00338
Patent 8,995,357 B2

LM Ericsson and Ericsson Inc. Paper 3, 2. The parties do not raise any issue about real parties in interest.

B. Related Matters

Petitioner and Patent Owner identify the following Board proceeding as a related matter involving a challenge to the '357 patent: *Samsung Electronics Co. v. Telefonaktiebolaget LM Ericsson*, IPR2021-00450 (PTAB Feb. 5, 2021). Pet. 83–84; Paper 3, 2. Petitioner states that this proceeding “was dismissed prior to institution before a preliminary response was filed.” Pet. 83–84; *see id.* at 2–3.

Patent Owner identifies the following International Trade Commission (ITC) investigation as a related matter involving a patent related to the '357 patent: *In re Certain Mobile Telephones, Tablet Computers with Cellular Connectivity, and Smart Watches with Cellular Connectivity, Components Thereof, and Products Containing Same*, No. 337-TA-1299 (the “1299 ITC investigation”). Prelim. Resp. 44–45; *see* Ex. 2009, 1.

C. The '357 Patent (Exhibit 1001)

The '357 patent, titled “Transmission of System Information on a Downlink Shared Channel,” issued on March 31, 2015, from a PCT application filed in Sweden on April 10, 2008. Ex. 1001, codes (22), (45), (54), (86). The patent states that the invention “generally relates to wireless communication networks, and particularly relates to the transmission of system information to user equipment (UE) operating in such networks,” such as “the transmission of system information by radio base stations in a wireless communication network configured according to 3GPP E-UTRA

(evolved Universal Terrestrial Radio Access) standards, also referred to as 3GPP LTE (Long Term Evolution).” *Id.* at 1:7–14; *see id.* at code (57).

The ’357 patent explains that the “system information can be divided into two parts, one part being fixed and the other part being dynamic.”

Ex. 1001, 1:62–63. A base station may transmit (1) the fixed part of the system information on the Broadcast Channel (BCH) transport channel and (2) the dynamic part of the system information on the Downlink Shared Channel (DL-SCH) transport channel. *Id.* at 2:4–12, 2:18–20.

The ’357 patent also explains that the “dynamic part of the system information is divided into different so-called scheduling units, also referred to as System Information Messages.” Ex. 1001, 2:25–27. “In general, information corresponding to scheduling unit number n should be repeated more often than information corresponding to scheduling unit number $n+1$.” *Id.* at 2:28–30. For instance, “scheduling unit #1 (SU-1) may be repeated (approximately) once every 80 ms, scheduling unit #2 (SU-2) may be repeated (approximately) once every 160 ms, scheduling unit #3 (SU-3) may be repeated (approximately) once every 320 ms, etc.” *Id.* at 2:30–35.

The '357 patent's Figure 1 (reproduced below) depicts an embodiment of a wireless network:

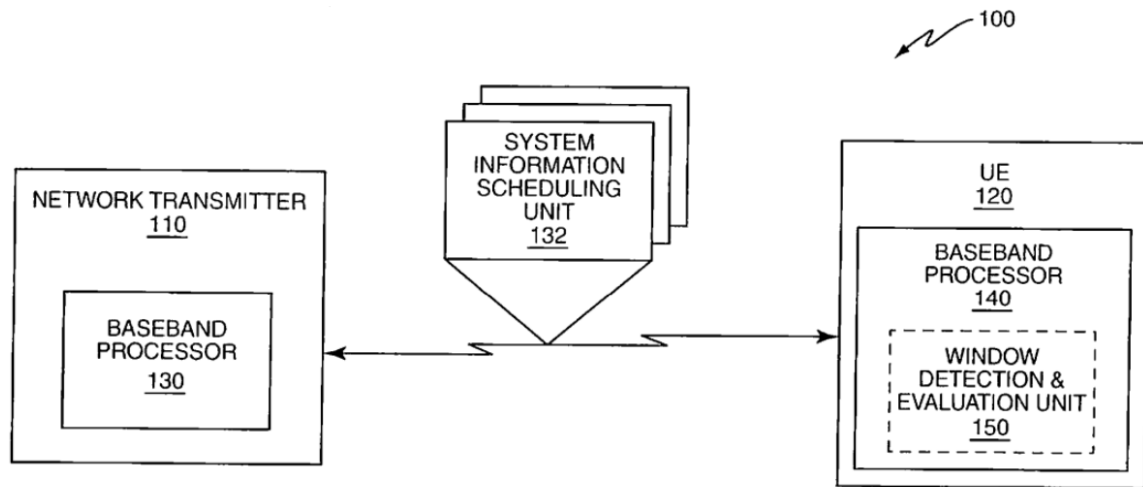


FIG. 1

Figure 1 “is a block diagram of an embodiment of a wireless network that overlays or otherwise defines a recurring sequence of time windows for the transmission of dynamic system information using subframes falling within the defined time windows.” Ex. 1001, 2:66–3:3, Fig. 1.

Figure 1 illustrates “wireless network 100 including one or more network transmitters 110 such as a radio base station which services one or more UEs 120.” Ex. 1001, 3:28–30, Fig. 1. Network transmitter 110 “includes a baseband processor 130 for generating one or more scheduling units 132 (also referred to as System Information Messages) including dynamic parts of the system information.” *Id.* at 3:30–34, Fig. 1. Network transmitter 110 “sends the scheduling units 132 to the UE 120” using different system-information time windows. *Id.* at 3:34–36.

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