

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ALEX K. RAITH

Appeal No. 1998-0666
Application 08/467,876

ON BRIEF

Before JERRY SMITH, BARRETT and BARRY, Administrative Patent Judges.

JERRY SMITH, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 13-15, 47, 48 and 54-62, which constitute all the claims remaining in the application.

The disclosed invention pertains to the field of conserving battery power in mobile units of a radiocommunication system. More particularly, the invention

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claims 60-62 as each depending from independent claim 59.

Rather than repeat the arguments of appellant or the examiner, we make reference to the brief and the answer for the respective details thereof.

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OPINION

We have carefully considered the subject matter on appeal, the rejection advanced by the examiner and the evidence of anticipation relied upon by the examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, the appellant's arguments set forth in the brief along with the examiner's rationale in support of the rejection and arguments in rebuttal set forth in the examiner's answer.

It is our view, after consideration of the record before us, that the disclosure of Tayloe does fully meet the invention as set forth in claims 13-15, 47, 48 and 54-62. Accordingly, we affirm.

Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert. dismissed, 468 U.S. 1228 (1984); W.L. Gore and Associates, Inc. v. Garlock, Inc., 721 F.2d 1540,

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1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469
U.S. 851 (1984).

The examiner indicates how he reads each of independent claims 13, 54 and 59 on the disclosure of Tayloe [answer, pages 4-5]. With respect to these independent claims, appellant argues that Tayloe only sets paging frame classes at registration. According to appellant, Tayloe does not teach or suggest modifying the paging frame class once it has been assigned by way of a message which is transmitted from the radiocommunication system [brief, pages 5-6]. Because of this distinction, appellant argues that Tayloe fails to disclose the final limitation in each of claims 13, 54 and 59. The examiner responds that the "DRX factor" in Tayloe is a paging repeat factor which meets the recitations of the claims [answer, pages 5-7].

After a careful consideration of the record in this case and in view of the scope of the independent claims, we agree with the conclusion reached by the examiner. Although Tayloe only specifically discloses providing wake-up interval information to a mobile unit as part of the registration

process [column 3, lines 8-12], we agree with the examiner that the disclosure as a whole suggests that this wake-up information is continually adjusted and transmitted to each mobile unit as conditions warrant. In other words, the artisan would have understood from the Tayloe disclosure that DRX information is also transmitted to mobile units after registration has occurred. Otherwise, a substantial number of mobile units would be unaffected by the traffic considerations which are so important in Tayloe. Such a reading of Tayloe seems inappropriate to this panel. Thus, we find that the disclosure of Tayloe, as understood by the artisan, meets the claim recitations of transmitting page frame modifiers from the system to the mobile units to maintain a current assigned page class or to establish a new assigned page class.

Even if appellant's argument that Tayloe sets wake-up information only at initial registration is correct, we are still of the view that the invention of independent claims 13, 54 and 59 would be met by the operation of Tayloe's system. Specifically, we view these claims as broad enough to be met by the page frame update in Tayloe which would occur every time a given mobile unit leaves one paging area 100 and enters

a new paging area 100. That is, the radiocommunication system in Tayloe, including all the paging areas 100 [Figure 1], transmits wake-up information to a mobile unit at this time which either maintains the previously assigned page class or commands the mobile unit to use a new page class. The claims do not preclude the transmitting step, the transmitter or the processing unit from making the adjustment as paging areas are entered. Tayloe would clearly meet this broad statement of the invention.

Therefore, we sustain the examiner's rejection of claims 13, 54 and 59 as anticipated by the disclosure of Tayloe. Since dependent claims 14, 15, 55, 56, 60 and 61 are grouped with one of these independent claims [brief, page 4], we also sustain the rejection of these claims.

With respect to claims 47 and 57, appellant argues that these claims are not met by Tayloe because Tayloe fails to teach or suggest the transmission of any page frame modifier [brief, page 6]. This argument has already been decided adversely to appellant. Additionally, the examiner has explained how he reads these claims on Tayloe [answer, page 7], and appellant has not provided any rebuttal arguments

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to the examiner's reading. Therefore, we sustain the rejection of claims 47 and 57.

With respect to claims 48, 58 and 62, appellant argues that the feature of the unaddressed information element is not found or alleged to be found in Tayloe [brief, page 6]. The examiner responds that the DRX factor in Tayloe is sent as time division multiplexed information which relies on timing rather than addresses to reach the mobile unit, and therefore, meets the language of these claims [answer, page 7]. We agree with the examiner and note that appellant has offered no rebuttal to this position of the examiner. Therefore, we also sustain the rejection of these claims.

In conclusion, we have sustained the examiner's rejection of all pending claims under 35 U.S.C. § 102. Therefore, the decision of the examiner rejecting claims 13-15, 47, 48 and 54-62 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

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JERRY SMITH
Administrative Patent Judge

LEE E. BARRETT
Administrative Patent Judge

LANCE LEONARD BARRY
Administrative Patent Judge

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STEVEN M. DU BOIS
BURNS, DOANE, SWECKER AND MATHIS
P. O. BOX 1404
ALEXANDRIA, VA 22313-1404

JS:caw