

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 12

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte D. RIDGELY BOLGIANO
and GILBERT E. LAVEAN

Appeal No. 1998-2992
Application No. 08/539,276

ON BRIEF

Before HAIRSTON, KRASS, and BARRY, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 14 through 23, 43 through 58, 72 through 81, 101 through 116 and 139 through 194.

The disclosed invention relates to a wireless communication system and method that transmits a first data packet from a first antenna in a first time slot to a

subscriber station, and a second data packet from a second antenna in a second time slot to the subscriber station. The second time slot occurs after the first time slot, and the first and second time slots are selected so that the first antenna and the second antenna do not simultaneously transmit data to the subscriber station.

Claim 14 is illustrative of the claimed invention, and it reads as follows:

14. In a wireless communication system, wherein a data packet is communicated from a signal source to a subscriber station, said system including a transfer station between said signal source and said subscriber station for receiving said data packet from said signal source and retransmitting said data packet to said subscriber station, said transfer station including a transfer station receiver, first and second transfer station transmitters and first and second antennas spaced apart from each other, a method at said transfer station comprising:

receiving said data packet at said transfer station;

retransmitting said data packet from said first antenna to form a first transmitted data packet in a first time slot; and

retransmitting said data packet from said second antenna to form a second transmitted data packet after said first transmitted data packet in a second time slot, said second time slot occurring after said first time slot;

wherein said first and second time slots are selected so that said first antenna and said second antenna do not simultaneously transmit data to said subscriber station.

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The references relied on by the examiner are:

Dean et al. (Dean) 1996	5,513,176	Apr. 30, 1996
		(filed Aug. 27, 1993)
Leppanen 1996	5,533,013	July 2, 1996
		(effectively filed date Nov. 29, 1993)

Claims 14, 15, 23, 43, 44, 52, 53, 72, 73, 81, 101, 102, 110 and 111 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Dean.

Claims 16, 17, 19, 45, 46, 48, 54 through 56, 74, 75, 77, 103, 104, 106, 112 through 114, 139 through 143, 147, 148, 150, 154 through 158, 160 through 171, 175 through 178 and 182 through 194 stand rejected under 35 U.S.C. § 103 as being unpatentable over Dean in view of Leppanen.

Claims 18, 20 through 22, 47, 49 through 51, 58, 76, 78 through 80, 105, 107 through 109, 116, 144 through 146, 149, 151 through 153, 159, 172 through 174, 177 and 179 through 181 stand rejected under 35 U.S.C. § 103 as being unpatentable over Dean in view of Leppanen and admitted prior art.

Reference is made to the brief and the answer¹ for the respective positions of the appellants and the examiner.

OPINION

All of the rejections are reversed.

All of the claims on appeal state that the first antenna and the second antenna "do not simultaneously transmit data to said subscriber station." The examiner contends (answer, page 9) that "Dean, discloses the signal transmitted from different antennas, as shown in Fig. 2 and Fig. 3, at different times which means signals are not simultaneously transmitted." The appellants argue (brief, pages 2, 3 and 12) that the short delay of the delay device used in Dean causes the antennas to transmit the same signal substantially simultaneously to a subscriber receiver.

In Dean, an analog transmitter 120 located in base station 100 transmits the same signal over two different distribution cables 130 and 132 and two different antennas located in node 200A (Figure 2). The signal that travels via cable 130 is delayed with respect to the signal that travels

¹ The statements of the rejections omit claims 57 and 115.

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via cable 132 by delay element 150 for one chip duration (column 9, lines 11 through 28).

Dean never compares the time duration of "one chip duration" to the time period needed to transmit the noted signal. Without a comparison of the two time periods, we have no way of knowing whether the first transmission of the signal via cable 132 ends before the start of the second transmission of the signal via delay element 150 and cable 130. As a result thereof, we can not agree with the examiner's conclusion that the two signals are not simultaneously transmitted.

In summary, the 35 U.S.C. § 102(e) rejection of claims 14, 15, 23, 43, 44, 52, 53, 72, 73, 81, 101, 102, 110 and 111 is reversed because we will not resort to speculation as to the teachings of Dean.

The 35 U.S.C. § 103 rejections of claims 16 through 22, 45 through 51, 54 through 56, 58, 74 through 80, 103 through 109, 112 through 114, 116 and 139 through 194 are reversed because the teachings of Leppanen and the so-called admitted prior art do not cure the noted shortcoming in the teachings of Dean.

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DECISION

All of the rejections are reversed. Accordingly, the decision of the examiner is reversed.

REVERSED

KENNETH W. HAIRSTON)

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Administrative Patent Judge)	
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)	BOARD OF PATENT
ERROL A. KRASS)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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LANCE LEONARD BARRY)	
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DECISION: REVERSED
Send Reference(s): Yes No
or Translation (s)
Panel Change: Yes No
Index Sheet-2901 Rejection(s):

Prepared: May 20, 2002

Draft Final

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OB/HD GAU

PALM / ACTS 2 / BOOK
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