

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 20

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte JOHN DAVID KAEWELL, JR. and SCOTT DAVID KURTZ

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Appeal No. 2003-0660  
Application No. 09/791,259<sup>1</sup>

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HEARD: JULY 16, 2003

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Before RUGGIERO, DIXON and SAADAT, Administrative Patent Judges.  
SAADAT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the Examiner's final rejection of claims 1-14, which are all of the claims pending in this application.

We reverse.

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<sup>1</sup> Application for patent filed February 23, 2001, which is a continuation of Application No. 09/356,845, filed July, 19, 1999, which is a continuation of Application No. 08/796,973, filed February 7, 1997, now U.S. Patent No. 5,930,297, which is a continuation of Application No. 08/588,073, filed January 17, 1996, now U.S. Patent No. 5,625,653, which is a continuation of Application No. 08/347,835, filed December 1, 1994, now U.S. Patent No. 5,495,508, which is a continuation of Application No. 08/104,322, filed August 9, 1993, now abandoned, which is a continuation of Application No. 07/438,618, filed November 20, 1989, now abandoned, which is a continuation of Application No. 07/123,395, filed November 20, 1987, now U.S. Patent No. 4,935,927.

BACKGROUND

Appellants' invention is directed to a system for providing efficient wireless digital technology for placing local calls to and from individual subscribers. According to Appellants, the conventional systems are established around complex base stations in communication with both a central office and a plurality of subscriber stations utilizing a pair of frequencies, one for transmission and one for reception (specification, pages 1 & 2). Appellants' invention provides for a modified subscriber station capable of acting as a simulated or emulated base station which may be substituted for an actual base station to initiate the synchronization process (specification, page 2). Thus, on only a single frequency, a subscriber unit may either talk to the emulated base station or to another subscriber station that has been synchronized therewith by the emulated base station (specification, pages 2 & 3).

Representative independent claim 1 is reproduced as follows:

1. In a telecommunication system for conducting a plurality of communications which comprise transmitted (TX) and received (RX) information using wireless transmissions between a first communication station and a second station over one of a plurality of available frequencies; the system further including a primary/secondary station comprising:

a receiver for receiving synchronization information from said first communication station;

Appeal No. 2003-0660  
Application No. 09/791,259

a circuit for adjusting the TX and RX timing of said primary/secondary station in accordance with said synchronization information, whereby the timing of said primary/secondary station is synchronized to said first communication station; and

a transmitter for transmitting synchronization information to said second communication station, wherein said second communication station includes a circuit for adjusting the TX and RX timing of said second communication station in accordance with said synchronization information, whereby the timing of said second communication station is synchronized to said primary/secondary communication station.

The following reference is relied on by the Examiner:

Schlosser et al. (Schlosser) 3,897,581 Apr. 22, 1975

Claims 1-5 and 7-13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Schlosser.

Claims 6 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schlosser.

Rather than reiterate the viewpoints of the Examiner and Appellants regarding the above-noted rejections, we make reference to the answer (Paper No. 13, mailed October 8, 2002) for the Examiner's reasoning, and to the brief (Paper No. 12, filed May 31, 2002) for Appellants' arguments thereagainst.

#### OPINION

In rejecting claims 1-5 and 7-13 under 35 U.S.C. § 102, the Examiner equates the repeater in spacecraft 100 of Schlosser with the claimed primary/secondary station (answer, page 3). The

Appeal No. 2003-0660  
Application No. 09/791,259

Examiner further characterizes the transmission of the timing information between the repeater and data terminals 110 of Schlosser as the claimed transmitting and receiving the synchronization information to and from the first communication station by the primary/secondary station (id.).

Appellants argue that the repeater in the spacecraft of Schlosser does not adjust its transmit and receive timing to the data terminals and, in fact, it is the timing of the data terminals which is adjusted to that of the spacecraft (brief, page 7). Appellants further argue that the repeater in the spacecraft of Schlosser acts like a base station whereas the claimed primary/secondary station, as a repeater, synchronizes its timing to the first station which acts as a base station (brief, page 8). Appellants also point out that the claimed second station, as a subscriber unit, synchronizes its timing to the repeater station or the primary/secondary station (id.).

In response to Appellants' arguments, the Examiner asserts that the spacecraft of Schlosser transmits an initial synchronization process to the data terminals and, in response to a "synch. Signal" from the data terminals, will further perform a fine synchronization for the data terminals (answer, page 5). The Examiner concludes that the transmission of coarse and fine synchronization between the spacecraft and data terminals shows

Appeal No. 2003-0660  
Application No. 09/791,259

that the data terminals and the spacecraft are synchronizing their timing as claimed (answer, pages 5 & 6).

A rejection for anticipation under section 102 requires that each and every limitation of the claimed invention be disclosed in a single prior art reference. In re Paulsen, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994). See also Atlas Powder Co. v. Ireco Inc., 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1947 (Fed. Cir. 1999).

We observe that Schlosser, as depicted in Figure 1, discloses a communication system wherein processor repeater spacecraft 100 controls the assignment of the time slots, overall synchronization of the system and reformatting of data from ground data terminals 110 (col. 4, lines 8-21). Schlosser further teaches that the wideband downlink 121 and the narrowband uplink 122 are used for voice and data communication while narrowband uplink 123 is used for rapid initial coarse synchronization of data terminals 110 (col. 4, lines 45-49). We also find that spacecraft 100 interrogates and calls data terminals 110 using wideband downlinks 121 to provide a time reference for uplink synchronization of the terminals (col. 4, lines 53-59). Therefore, the data terminals must be synchronized to the spacecraft downlink format in order to communicate without interfering with a transmission in another time slot in an uplink

Appeal No. 2003-0660  
Application No. 09/791,259

frame (col. 6, lines 7-15).

We disagree with the Examiner that the coarse and fine synchronization between the spacecraft and the data terminals indicates that both the data terminals and the spacecraft synchronize their timing. Although each data terminal in Schlosser is synchronized to uplink transmission from other terminals, as also indicated by Appellants' representative (oral hearing), the data terminals synchronize themselves to the spacecraft based on a time reference from the repeater (col. 6, lines 9-15). Thus, the spacecraft repeater of Schlosser is not synchronized to any of the data terminals and merely acts as a reference or base station to which the data terminals or subscribers are synchronized. Accordingly, we find that the Examiner has failed to meet the burden of providing a prima facie case of anticipation. Thus, we do not sustain the 35 U.S.C. § 102 rejection of claims 1-5 and 7-13 over Schlosser.

The Examiner further relies on the requirement of identical implementation of the transceiver units in order to communicate to modify Schlosser for rejecting claims 6 and 14. Although it may be obvious to use transceivers having identical implementations in the spacecraft repeater of Schlosser, the deficiencies of Schlosser as discussed above with respect to independent base claims 1 and 11 cannot be overcome.

Appeal No. 2003-0660  
Application No. 09/791,259

Accordingly, the 35 U.S.C. § 103 rejection of claims 6 and 14 over Schlosser cannot be sustained.

CONCLUSION

In view of the foregoing, the decision of the Examiner to reject claims 1-5 and 7-13 under 35 U.S.C. § 102 and claims 6 and 14 under 35 U.S.C. § 103 is reversed.

REVERSED

JOSEPH F. RUGGIERO  
Administrative Patent Judge

JOSEPH L. DIXON  
Administrative Patent Judge

MAHSHID D. SAADAT  
Administrative Patent Judge

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Appeal No. 2003-0660  
Application No. 09/791,259

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