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Paper 62
Entered: November 3, 2014

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

POLARIS WIRELESS, INC.,
Petitioner,

v.

TRUEPOSITION, INC.,
Patent Owner.

Case IPR2013-00323
Patent 7,783,299 B2

Before JAMESON LEE, JONI Y. CHANG, and MICHAEL W. KIM, *Administrative Patent Judges*.

KIM, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. BACKGROUND

A. Introduction

Polaris Wireless, Inc. ("Petitioner") filed a Petition requesting *inter partes* review of claims 111–114 of U.S. Patent No. 7,783,299 B2 (Ex. 1001, "the '299 patent"). Paper 1 ("Pet."). Petitioner relies upon the following prior art references:

Zell	WO 99/33303	July 1, 1999	Ex. 1007[1]
Abbadessa	U.S. Patent 6,088,587	July 11, 2000	Ex. 1011
Havinis	U.S. Patent 6,167,266	Dec. 26, 2000	Ex. 1012

TruePosition, Inc. ("Patent Owner") timely filed a Patent Owner Preliminary Response. Paper 6 ("Prelim. Resp."). On November 15, 2013, the Board instituted trial for claims 111–114 on the following grounds of unpatentability:

Reference(s)	**Basis**	**Claims Challenged**
Zell	§ 102(b)	111–114
Abbadessa and Havinis	§ 103(a)	111–114

Paper 9 ("Dec.").

After institution of trial, Patent Owner filed a Patent Owner Response. Paper 21 ("PO Resp."). Petitioner subsequently filed a Reply to the Response. Paper 30 ("Reply"). Petitioner filed a Motion to Exclude (Paper 39; "Pet. Mot."), to which Patent Owner filed an Opposition (Paper 47; "PO

[1] Although Zell is Exhibit 1007, Zell is written in French. Accordingly, all citations to Zell in this Decision will be to Exhibit 1008, which is a certified English language translation of Zell.

Opp.”). Petitioner then filed a Reply (Paper 51; “Pet. Reply”). Patent Owner filed a Motion to Exclude (Paper 38; “PO Mot.”), to which Petitioner filed an Opposition (Paper 48; “Pet. Opp.”). Patent Owner then filed a Reply (Paper 50; “PO Reply”). An oral hearing was held on July 15, 2014. The transcript of the hearing has been entered into the record. Paper 61.

We have jurisdiction under 35 U.S.C. § 6(c). This final written decision is issued pursuant to 35 U.S.C. § 318(a).

Petitioner has shown by a preponderance of the evidence that claims 111–114 of the ’299 patent are *unpatentable*.

Petitioner’s Motion to Exclude is *dismissed*.

Patent Owner’s Motion to Exclude is *dismissed-in-part* and *denied-in-part*.

B. Related Proceedings

Both Petitioner and Patent Owner indicate that the ’299 patent was asserted against Petitioner in a co-pending district court case captioned *TruePosition, Inc. v. Polaris Wireless, Inc.*, Case No. 1:12-cv-00646 (D. Del.). Pet. 3; Paper 23, 2.

C. The ’299 patent

The subject matter of the ’299 patent relates to locating wireless devices, also called mobile stations (“MS”), such as those used in analog or digital cellular systems, personal communications systems, enhanced specialized mobile radios, and other types of wireless communications systems. Ex. 1001, 1:23–28. The ’299 patent discloses that wireless location systems have been installed in more than 40,000 Base Transceiver Stations (BTS), providing emergency location coverage for wireless

subscribers across the continental United States. Ex. 1001, 1:62–67. According to the '299 patent, widespread deployment of these systems can reduce emergency response time, save lives, and save enormous costs because of the reduced use of emergency response resources. Ex. 1001, 2:6–9. In addition, the '299 patent discloses that surveys and studies have concluded that various wireless applications, such as location sensitive billing, fleet management, and others, will have great commercial value in coming years. Ex. 1001, 2:9–12.

Early work related to wireless location systems used time difference of arrival techniques to locate cellular telephones. Ex. 1001, 1:39–43. Over time, the cellular industry has increased the number of air interface protocols available for use by wireless telephones, increased the number of frequency bands in which wireless or mobile telephones may operate, and expanded the number of terms that refer or relate to mobile telephones to include "personal communications services," "wireless," and others. Ex. 1001, 1:51–57.

Air interface protocols use two categories of channels, where a channel is defined as one of multiple transmission paths within a single link between points in a wireless network. Ex. 1001, 2:19–22. A channel may be defined by frequency, by bandwidth, by synchronized time slots, by encoding, by shift keying, by modulation scheme, or by any combination of these parameters. Ex. 1001, 2:22–24. The first channel category, called a control or access channel, is used to convey information about the wireless telephone or transmitter, for initiating or terminating calls, or for transferring intermittent data. Ex. 1001, 2:25–28. The second channel category, known

as a voice or traffic channel, typically conveys voice or data communications over an air interface. Ex. 1001, 2:33–35.

There are some difficulties in integrating wireless location services with certain air interface protocols. For example, one protocol, Code-Division Multiple Access ("CDMA"), uses both frequency and code separation. Ex. 1001, 3:7–9. Because adjacent cell sites may use the same frequency sets, CDMA must operate under very careful power control, producing a situation known to those skilled in the art as the near-far problem, making it difficult for most methods of wireless location to achieve an accurate location. Ex. 1001, 3:9–13. In another example, networks that use Global System for Mobile Communications ("GSM") protocol also present a number of potential problems to existing wireless location systems. Ex. 1001, 4:8–9. GSM networks use encryption on the traffic channel and use temporary nicknames (Temporary Mobile Station Identifiers (TMSID)) for security reasons, making it difficult to identify properly a desired MS in order to trigger or task wireless location systems. Ex. 1001, 4:11–15. Furthermore, an MS connected to GSM networks does not transmit signals to regional receivers except during call setup, voice/data operation, and call breakdown, reducing the number of opportunities to detect the MS. Ex. 1001, 4:15–21.

To solve these and other problems, methods and systems are disclosed that are employed by a wireless location system (WLS) for locating a wireless device operating in a geographic area served by a wireless communications system. Ex. 1001, 4:39–42. According to the '299 patent, an exemplary method includes monitoring a set of signaling links of a

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