

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMAZON.COM, INC., HTC CORPORATION, ZTE (USA), INC.,
PANTECH CO., LTD., PANTECH WIRELESS, INC.,
LG ELECTRONICS, INC., LG ELECTRONICS U.S.A., INC., and
DELL INC.,
Petitioner,

v.

CELLULAR COMMUNICATIONS EQUIPMENT, LLC,
Patent Owner.

Case IPR2014-01134
Patent 7,941,174 B2

Before JENNIFER S. BISK, GREGG I. ANDERSON, and
ROBERT J. WEINSCHENK, *Administrative Patent Judges*.

WEINSCHENK, *Administrative Patent Judge*.

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

I. INTRODUCTION

Amazon.com, Inc., NEC Corporation of America, NEC Mobile Communications, Ltd.,¹ HTC Corporation, ZTE (USA), Inc., Pantech Co., Ltd., Pantech Wireless, Inc., LG Electronics, Inc., LG Electronics U.S.A., Inc., and Dell Inc. (collectively, “Petitioner”) filed a Petition (Paper 10, “Pet.”) requesting an *inter partes* review of claims 1, 6, 9, 14, 18, and 19 of U.S. Patent No. 7,941,174 B2 (Ex. 1001, “the ’174 patent”). Cellular Communications Equipment, LLC (“Patent Owner”) filed a Preliminary Response (Paper 15, “Prelim. Resp.”) to the Petition. On January 15, 2015, we instituted an *inter partes* review of claims 1, 6, 9, 14, 18, and 19 (“the challenged claims”) of the ’174 patent on the following grounds:

Claim(s)	Statutory Basis	Applied References(s)
1, 6, 9, 14, 18, and 19	35 U.S.C. § 102(e)	U.S. Patent Pub. No. 2008/0151840 A1 (published June 26, 2008) (Ex. 1005, “Baker”)
1, 6, 9, 14, 18, and 19	35 U.S.C. § 103(a)	U.S. Patent No. 7,689,239 B2 (issued Mar. 30, 2010) (Ex. 1004, “Reed”) and Baker
1, 6, 9, 14, 18, and 19	35 U.S.C. § 103(a)	Reed and U.S. Patent No. 7,321,780 B2 (issued Jan. 22, 2008) (Ex. 1006, “Love”)

Paper 16 (“Dec. on Inst.”), 17.

After institution, Patent Owner filed a Response (Paper 33, “PO Resp.”) to the Petition, and Petitioner filed a redacted Reply (Paper 42, “Pet. Reply”) and a sealed Reply (Paper 43) to the Response. An oral hearing was

¹ NEC Mobile Communications, Ltd. was formerly known as NEC CASIO Mobile Communications, Ltd. Paper 14, 2. NEC Corporation of America and NEC Mobile Communications, Ltd. were dismissed on February 12, 2015. Paper 21, 2–3.

held on August 26, 2015, and a transcript of the hearing is included in the record. Paper 56 (“Tr.”).

We issue this Final Written Decision pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons set forth below, Petitioner has not shown by a preponderance of the evidence that claims 1, 6, 9, 14, 18, and 19 of the ’174 patent are unpatentable.

A. *Related Proceedings*

The parties indicate that the ’174 patent is the subject of several cases in the United States District Court for the Eastern District of Texas. Pet. 1–2; Paper 13, 2–3.

B. *The ’174 Patent*

The ’174 patent relates to a radio communication system in which a subscriber station is assigned a plurality of codes for transmitting messages. Ex. 1001, col. 1, ll. 14–17. According to the ’174 patent, when radio transmission conditions deteriorate while a subscriber station is transmitting a message, a base station may request that the subscriber station increase the transmit power. *Id.* at col. 4, ll. 47–50. However, a subscriber station can only increase the transmit power up to a maximum value for that subscriber station. *Id.* at col. 4, ll. 50–52. As a result, if a subscriber station reaches the maximum transmit power during transmission of a message and subsequently receives a request from the base station to increase the transmit power, the subscriber station may have to abort transmission of the message before completion. *Id.* at col. 5, ll. 54–61.

To address this problem, the ’174 patent describes a system in which the subscriber station maintains a transmit power difference or “power headroom.” *Id.* at col. 6, ll. 40–44. The transmit power difference is a

difference between the total transmit power for a plurality of codes assigned to the subscriber station at the start of a message transmission and the maximum transmit power for a plurality of codes assigned to the subscriber station. *Id.* at col. 6, ll. 42–47. For example, if the maximum transmit power for a subscriber station is 18 dBm and a transmit power difference of 8 dBm is maintained by the subscriber station, the subscriber station has 10 dBm of transmit power at the start of a message transmission. *Id.* at col. 6, l. 55–col. 7, l. 3. As a result, if the base station requests an increase in transmit power for one of the codes during transmission, the subscriber station has 8 dBm of headroom to increase the transmit power without having to abort the transmission. *Id.* at col. 6, ll. 40–49. The amount of the transmit power difference maintained by a subscriber station can be determined based on a variety of factors, including current interference, type of service, network strategy, and subscriber class. *Id.* at col. 7, ll. 29–30, col. 7, ll. 54–55, col. 8, ll. 8–9, col. 8, l. 13.

C. *Illustrative Claim*

Claims 1, 9, and 18 are independent. Claim 1 is reproduced below.

1. A method for operating a radio communication system in which a subscriber station is assigned a plurality of codes for transmitting messages, comprising:

determining a transmit power difference which is to be maintained by the subscriber station between on one hand a total maximum transmit power of the subscriber station for the codes and on another hand a total transmit power of the subscriber station for the codes at a start of a message transmission using a first one of the codes.

Id. at col. 9, ll. 56–64.

II. ANALYSIS

A. *Identification of Real Parties in Interest*

The Petition identifies several real parties in interest. Pet. 1. Based on the information in the Petition and Preliminary Response, we did not identify any issues under 35 U.S.C. § 312(a)(2) or § 315(b), and we instituted an *inter partes* review. See Dec. on Inst. 2. Patent Owner argues in its Response that NEC Corporation and HTC America are real parties in interest that are not identified in the Petition. PO Resp. 41. According to Patent Owner, the Decision on Institution should be vacated because, under 35 U.S.C. § 312(a)(2), a petition that does not identify all the real parties in interest cannot be considered. PO Resp. 42–44. For the reasons discussed below, we do not vacate the Decision on Institution.

1. *NEC Corporation*

The Petition identifies NEC Corporation of America (“NEC America”) and NEC Mobile Communications, Ltd.² (“NEC Mobile”) as real parties in interest. Pet. 1. Patent Owner argues that the Petition also should have identified NEC Corporation as a real party in interest because NEC Corporation controlled the participation of NEC America and NEC Mobile in this case. PO Resp. 47–49. Specifically, Patent Owner argues that NEC Corporation executed a Settlement Agreement with Patent Owner that required NEC America and NEC Mobile to withdraw from this case. *Id.* at 48. Patent Owner also argues that certain statements in the Motion to Terminate NEC America and NEC Mobile demonstrate that NEC

² NEC Mobile Communications, Ltd. was formerly known as NEC CASIO Mobile Communications, Ltd. Paper 14, 2.

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