

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

T-MOBILE US, INC. and T-MOBILE USA, INC.,
Petitioner,

v.

HUAWEI TECHNOLOGIES CO. LTD.,
Patent Owner.

Case IPR2017-00671
Patent 8,638,750 B2

Before TREVOR M. JEFFERSON, PATRICK M. BOUCHER, and
JOHN F. HORVATH, *Administrative Patent Judges*.

JEFFERSON, *Administrative Patent Judge*.

DECISION

Institution of *Inter Partes* Review
35 U.S.C. § 314(a) and 37 C.F.R. § 42.108

I. INTRODUCTION

A. Background

Petitioners, T-Mobile US, Inc. and T-Mobile USA, Inc. (“T-Mobile” or “Petitioner”) filed a Petition (Paper 3, “Pet.”) requesting an *inter partes* review of claims 1–4, 6–10, and 12–17 of U.S. Patent No. 8,638,750 B2 (Ex. 1001, “the ’750 patent”) pursuant to 35 U.S.C. §§ 311–319. T-Mobile relies on the Declarations of Dr. Sundeep Rangan (Ex. 1002) and Mr. Craig Bishop (Ex. 1009) in support of its Petition. Patent Owner, Huawei Technologies Co. Ltd. (“Huawei” or “Patent Owner”) filed a Preliminary Response (Paper 8, “Prelim. Resp.”) to the Petition, citing the Declaration of Mr. Scott Andrew Denning (Ex. 2001) in support of its response.

We have jurisdiction under 37 C.F.R. § 42.4(a) and 35 U.S.C. § 314, which provides that an *inter partes* review may not be instituted unless the information presented in the Petition “shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” After considering the Petition, Preliminary Response, and associated evidence, we conclude that Petitioner has demonstrated a reasonable likelihood that it would prevail in showing the unpatentability of claims 1–4, 6–10, and 12–17 of the ’750 patent.

B. Related Proceedings

The parties indicate that the ’750 patent is involved in *Huawei Technologies Co. Ltd. v. T-Mobile US, Inc.*, Case No. 2:16-cv-0056 (E.D. Tex). Pet. 1; Paper 7, 2.

C. The '750 Patent

The '750 patent relates to handover between a 3rd Generation Partnership Project (3GPP) network and a non-3GPP network, such as Wireless Local Area Network (WLAN). *See* Ex. 1001, 1:53–56, 3:23–5:18. An access process during handover from a non-3GPP system to a 3GPP system differs from a normal 3GPP access process. *Id.* at 2:53–61; 6:10–8:58.

In a normal 3GPP access process, the 3GPP system creates a default bearer for the user equipment (UE). *Id.* at 2:53–61. In an access process involving a handover from a non-3GPP system to the 3GPP system, the 3GPP needs to recover the resources used by the UE in the non-3GPP system for continuity of service for the UE. *Id.* at 2:47–57. The '750 patent:

provide[s] a method for creating resources, a method for deleting resources, and a network device. The method for creating resources includes: notifying, by a first network element, a second network element at network side of a process type for creating resources for a UE; and performing, by the second network element, a process for creating resources for the UE according to the process type. With the embodiments of the present invention, a problem in the prior art that the network element at network side (i.e., the second network element at network side) cannot differentiate different access requests (i.e., initial access request and access request caused by handover between access systems)[.]

Id. at Abstract.

Figure 3 below illustrates the signal interaction process for creating resources according to a first embodiment of the '750 patent invention. *Id.* at 5:25–27.

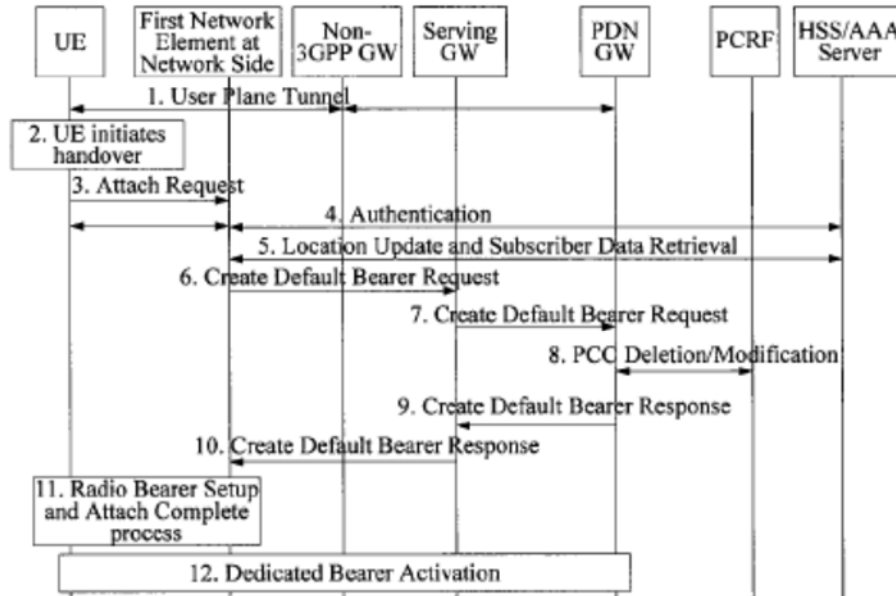


FIG.3

Figure 3 depicts in step 1 that “1. A UE may get access to a Non-3GPP access network though a Non-3GPP GW and a PDN GW” and in step 2 that “2. The UE may initiate a handover from the Non-3GPP access system to a 3GPP access system.” *Id.* at 6:10–13. In step 3, the UE may send an Attach Request for performing the handover from the non-3GPP system the 3GPP system. *Id.* at 6:14–16. In step 6,

For a normal access process, the first network element at network side may select a PDN GW for the UE according to a default Access Point Name (APN) in the subscriber data. For a handover access process, the first network element at network side may use the PDN GW that was used by the UE in the Non-3GPP access system (the first network element at network side may obtain the address information of the PDN GW from the HSS/AAA Server, or the HSS/AAA Server may send the stored address information of the PDN GW to the first network element at network side). If the 3GPP system is an SAE system, the first network element at network side may send a Create Default Bearer Request message to a Serving GW. If the 3GPP system is a GPRS/UMTS system, the first network element at network side may send a Create

Default PDP Context Request message to the Serving GW. A flag may be included in the message to indicate the process type for creating the bearer.

Id. at 6:64–7:13. In step 7, “the Serving GW may send a Create Default Bearer Request message to the PDN GW” and “[a] flag may be included in the message to indicate the process type for creating the bearer.” *Id.* at 7:36–43.

D. Illustrative Claim

T-Mobile challenges claims 1–4, 6–10, and 12–17 of the ’750 patent. Claims 1, 7, and 13 are independent. Claim 1, reproduced below with sublabels added according to the scheme used by the parties, is illustrative of the claims at issue:

1. [1a] A mobility management network device comprising:
 - [1b] a receiver; and
 - [1c] a transmitter configured to communicatively connect with the receiver,
 - [1d] wherein, during a handover from a non-3rd Generation Partnership Project (non-3GPP) access system to a 3GPP access system,
 - [1e] the receiver is configured to receive, from a user equipment (UE), an access request message for access the 3GPP access system; and
 - [1f] the transmitter is configured to send a resource request message to a packet data network gateway (PDN GW) to create resources for the UE to be used in the 3GPP access system,
 - [1g] wherein the access request message includes first handover indication information indicating that the access is a handover access;

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