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Paper No. 7
Entered: May 11, 2018

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HYTERA COMMUNICATIONS CO. LTD.,
Petitioner,

v.

MOTOROLA SOLUTIONS, INC.,
Patent Owner.

Case IPR2017-02179
Patent 7,369,869 B2

Before TREVOR M. JEFFERSON, DANIEL N. FISHMAN, and PATRICK M. BOUCHER, and *Administrative Patent Judges.*

JEFFERSON, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

A. Background

Hytera Communications Corp. Ltd. ("Petitioner")[1] filed a Petition (Paper 1, "Pet.") requesting *inter partes* review of claims 1–4, 6–9, 17, 18, 21, and 22 of U.S. Patent No. 7,369,869 B2 (Ex. 1001, "the '869 patent"). Motorola Solutions, Inc. ("Patent Owner") filed a Preliminary Response (Paper 6, "Prelim. Resp."). We have jurisdiction under 35 U.S.C. § 314 and 37 C.F.R. § 42.4(a). Under 35 U.S.C. § 314(a), an *inter partes* review may not be instituted "unless . . . there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition." For the reasons that follow, we do not institute an *inter partes* review of the challenged claims of the '869 patent.

B. Related Proceeding

The parties identify two related matters: *In the Matter of Certain Two-Way Radio Equipment And Systems, Related Software and Components Thereof*, ITC No. 337-TA-1053; and *Motorola Solutions, Inc. v. Hytera Communications Corporation Ltd., Hytera America, Inc., and Hytera Communications America (West), Inc.*, Case No. 1:17-cv-01972 (N.D. Ill.). Pet. 55; Paper 5, 2.

C. The '869 Patent (Ex. 1001)

The '869 patent is directed to "method and system for scanning a TDMA channel by a subscriber unit in a wireless communications

[1] Petitioner identifies Hytera Communications Corp. Ltd., Hytera America, Inc., and Hytera Communications America (West), Inc. as real parties in interest.

landscape." Ex. 1001, Abstract. The '869 patent states that in a typical wireless communications landscape of varied systems, each system has radio frequency (RF) communication resources, base radios, and subscriber units that are managed by system controllers. *Id*. at 2:8–13. The subscriber units send and receive communications with base radios. *Id*. at 2:11–13. The specification describes a method for providing channel access for active transmissions by scanning control, or activity update messages. *Id*. at 4:49–52, Fig. 2A. Figure 2A, below, shows a flow diagram for providing channel access for voice transmission. *Id*. at 1:56–57.

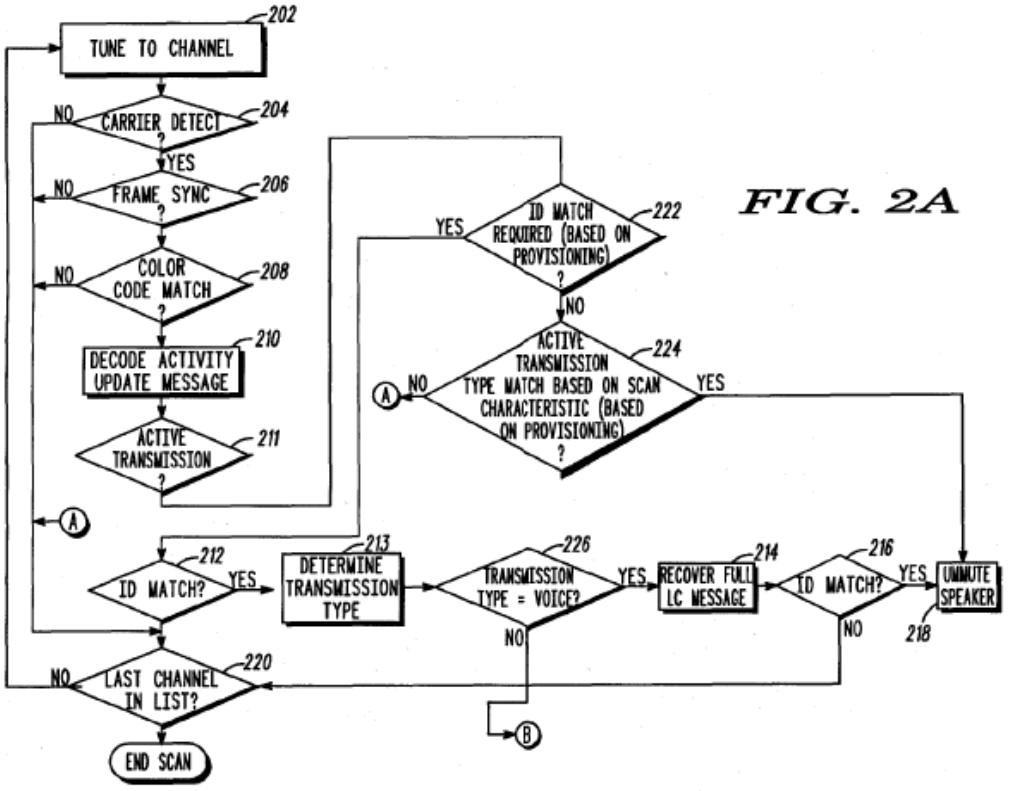

FIG. 2A

Figure 2A illustrates a subscriber unit (SU) in operation performs the function of scanning by tuning to a specified channel from a scan list preprogrammed in the scanning SU (Block 202). *Id*. at 3:63–66. Figure 2A shows that "[i]f there is a match of the color code for the active transmission

on the channel, then the scanning SU remains on the channel and decodes a specific [Common Announcement Channel (CACH)] message termed an 'activity update' message 300 (Block 210)." *Id*. at 4:49–52. The '869 patent further discloses that "[i]n an illustrative embodiment, the activity update message 300 is a 4-burst CACH message used to assist in identifying whether there is an active transmission (also termed 'activity') on the channel" for the SU to either "dwell on the channel or [] resume scanning." *Id*. at 4:52–58.

Figure 3, shown below, is an example of a specific Common Announcement Channel message referred to as an activity update. *Id*. at 1:58–59.

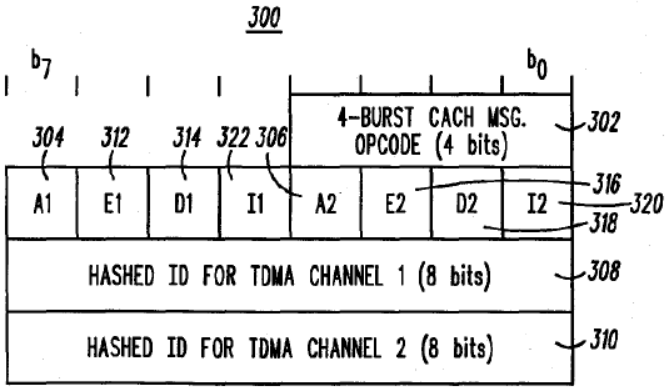

FIG. 3

As shown above in Figure 3, activity update message 300 includes activity fields 304, 306 that indicate whether an active transmission is present on the channel. *Id*. at 4:59–62, Fig. 3. If activity fields 304, 306 indicate that an active transmission is present, the scanning SU determines whether the active transmission is "of interest" to the scanning subscriber unit. *Id*. at 5:1–4. The scanning SU determines whether an active transmission is "of

interest" to the scanning subscriber unit by comparing identification fields 308, 310 of the message 300 to a subscriber unit identifier ("SUID") or talkgroup identifier ("TGID") of the scanning subscriber unit. *Id*. at 5:47–59. When the identification fields 308, 310 of the activity update message 300 match the SUID or TGID of the scanning subscriber unit, the scanning subscriber unit remains on the channel to receive the active transmission. *Id*. at 8:31–33.

D. Illustrative Claim

Petitioner challenges claims 1–4, 6–8, 17, 18, 21, and 22, of which claims 1, 17, and 21 are independent. Independent claim 1 is illustrative and reproduced below:

> 1. [preamble] A method for scanning a TDMA channel by a subscriber unit in a wireless communications landscape 100, wherein the subscriber unit is operationally connected to at least one base radio over a plurality of channels, the method comprising the steps of:
>
> [a] locking onto a channel of the plurality of channels by the subscriber unit wherein a subset of the plurality of channels is preprogrammed in a list in the subscriber unit;
>
> [b] transmitting from at least one base radio a control message to the subscriber unit wherein the control message has a first information which informs the subscriber unit of activity present on the channel of the plurality of channels;
>
> [c] receiving and decoding the control message for the first information by the subscriber unit; and
>
> [d] if the first information indicates that activity is present on the channel of the plurality of channels, then
>
> [e] determining whether the activity is of interest to the subscriber unit by comparing a second information in the control

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