UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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TOYOTA MOTOR CORP.,
Petitioner,

v.

INTELLECTUAL VENTURES II LLC,
Patent Owner.

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IPR2022-01127
U.S. Patent No. 10,292,138 B2

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Before SCOTT A. DANIELS, FREDERICK C. LANEY, and
MATTHEW S. MEYERS, *Administrative Patent Judges.*

DANIELS, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
35 U.S.C. § 314

I.   INTRODUCTION

Toyota Motor Corp. ("Petitioner"), filed a Petition requesting *inter
partes* review ("IPR") of claims 1–14 of U.S. Patent No. 10,292,138 B2

(Ex. 1001, "the '138 patent"). Paper 1 ("Pet."). Intellectual Ventures II LLC ("Patent Owner") filed a Preliminary Response to the Petition. Paper 10 ("Prelim. Resp."). Petitioner filed a Reply to the Preliminary Response. Paper 12 ("Reply"). Patent Owner filed a Sur-Reply to Petitioner's Reply. Paper 13 ("Sur-Reply").

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." Upon consideration of the arguments and evidence presented by Petitioner, we are not persuaded that Petitioner has demonstrated a reasonable likelihood that it would prevail in showing the unpatentability of at least one of the challenged claims. *See* 35 U.S.C. § 314(a). Accordingly, we do not institute an *inter partes* review of the challenged claims.

A. *Real Parties in Interest*

Petitioner states that Toyota Motor Corp., Toyota Motor North America, Inc., Toyota Motor Engineering & Manufacturing North America, Inc., and Toyota Motor Sales, U.S.A., Inc., are the real parties in interest. Pet. 73. Patent Owner states that Intellectual Ventures II LLC is the real party in interest. Paper 5, 2.

B. *Related Matters*

The parties indicate that the '138 patent is asserted in the following lawsuits, including, *Intellectual Ventures I LLC et al. v. Toyota Motor Corp. et al.*, 2:21-cv-00389 in the U.S. District Court for the Eastern District of Texas; *Intellectual Ventures I LLC et al. v. General Motors Company*, 6:21-cv-01088 in the U.S. District Court for the Western District of Texas; and *Intellectual Ventures I LLC et al. v. Honda Motor Company, Ltd. et al.*, 3:22-cv-00761 in the U.S. District Court for the Northern District of Texas;

and *Intellectual Ventures I LLC and Intellectual Ventures II LLC, v. Honda Motor Co., Ltd. et al.* 2:21-cv-00390 in the U.S. District Court for the Eastern District of Texas.

Petitioner also indicates that the '138 patent has been involved in the following *inter partes* review proceedings: *Ericsson Inc. and Telefonaktiebolaget LM Ericsson v. Intellectual Ventures II LLC*, IPR2018-01289; and *Sprint Spectrum L.P., SprintCom, Inc., TMobile USA, Inc., and T-Mobile US, Inc. v. Intellectual Ventures II LLC*, IPR2018-01765. Pet. 74.

C. *The '138 Patent (Ex. 1001)*

The '138 patent, titled "Determining Buffer Occupancy and Selecting Data for Transmission on a Radio Bearer," relates to allocation of bandwidth resources for Internet Protocol data flows in a wireless network. Ex. 1001 code 54, 1:23–25. The '138 patent explains that "[t]he invention is applicable to, but not limited to, gateway queuing algorithms in packet data transmissions, for example, for use in the universal mobile telecommunication standard." *Id.* at 1:25–28.

Figure 1 of the '138 patent, as annotated by Petitioner, is reproduced below illustrating standard radio access network system 100. *Id.* at 6:12–13.
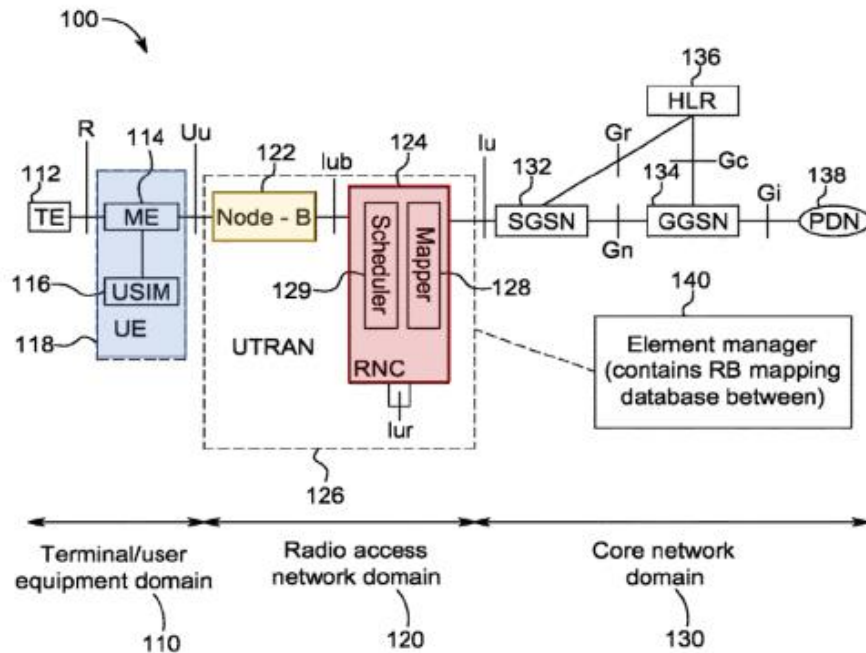
FIG. 1

Figure 1 illustrates user equipment (UE) 118 communicating data with Node
– B 122 which, in turn, communicates data with radio network controller
(RNC) 124 within UTRAN (UMTS Radio Access Network) 126. The '138
patent explains that

> [t]he UE may be for example a remote unit, a mobile station, a
> communication terminal, a personal digital assistant, a laptop
> computer, an embedded communication processor or any
> communication element communicating over the air interface of
> the cellular communication system.

Id. at 6:22–27. The '138 patent describes that within the RNC 124, "a
Mapper 128 is responsible for mapping IP packets to separate RBs [radio
bearer's] . . . [a] scheduler 129 is responsible *for allocating a certain
proportion of the radio resource to each of the RBs*."[1] *Id.* at 7:49–53.
(emphasis added). In addition, the '138 patent provides that

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[1] Radio bearers, "RBs," are also understood by those of ordinary skill in the
art as Radio Access Bearer's, "RABs." Ex. 1003 ¶ 39.

element manager logic 140 has been incorporated into the system, which is used to contain the database that defines the mapping characteristics for IP packets to RBs. The element manager logic 140 also contains the values of the queue weighting parameters, S_{tier}, as 60 described in more detail later.

Id. at 7:56–61.

The '138 patent describes a particular embodiment of the radio resource allocation in Figures 5 and 6 reproduced below.
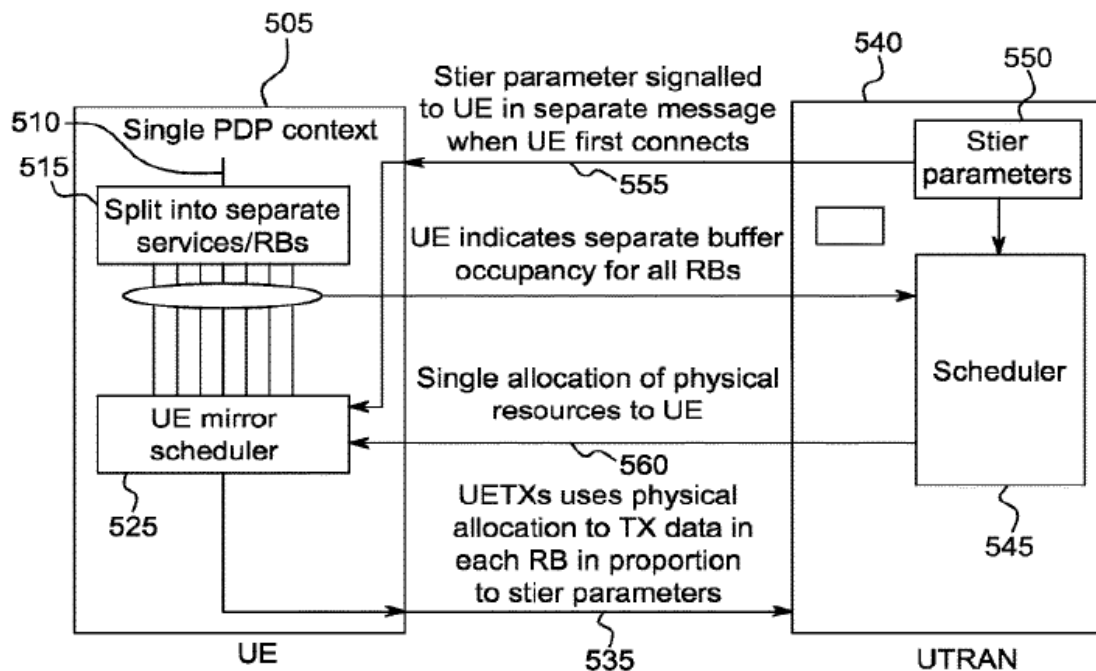

FIG. 5

Figure 5 illustrates "the communication between an UE 505 and the UTRAN 540 to support an uplink scenario." *Id.* at 10:3–5. The '138 patent explains that "the UE 505 may receive a single PDP [packet data protocol] context 510 and split the single PDP context 510 into separate services on individual radio bearers in divider logic 515." *Id.* at 10:5–8. The UE then informs scheduler 545 of buffer occupancies for the individual radio bearers, and scheduler 545 returns a single allocation of physical resources to UE based

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