

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LG ELECTRONICS, INC.,
Petitioner,

v.

CORE WIRELESS LICENSING S.A.R.L.,
Patent Owner.

Case IPR2015-01987
Patent RE 44,828

Before JAMESON LEE, DAVID C. McKONE, and
KEVIN W. CHERRY, *Administrative Patent Judges*.

McKONE, *Administrative Patent Judge*.

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

I. INTRODUCTION

A. Background

LG Electronics, Inc. (“Petitioner”) filed a Petition (Paper 1, “Pet.”) to institute an *inter partes* review of claims 16–28 of U.S. Patent No. RE 44,828 (Ex. 1001, “the ’828 patent”). Core Wireless Licensing S.a.r.l. (“Patent Owner”) filed a Preliminary Response (Paper 6, “Prelim. Resp.”). Upon consideration of the Petition and Preliminary Response, we conclude, under 35 U.S.C. § 314(a), that Petitioner has not established a reasonable likelihood that it would prevail with respect to any of claims 16–28. Accordingly, we do not institute an *inter partes* review of the ’828 patent.

B. Related Matters

The parties indicate that the ’828 patent has been asserted in *Core Wireless Licensing S.a.r.l. v. LG Electronics, Inc.*, No. 2:14-cv-00912 (E.D. Tex.), *Core Wireless Licensing S.a.r.l. v. Apple, Inc.*, No. 6:14-cv-00751 (E.D. Tex.), and *Core Wireless Licensing S.a.r.l. v. Apple, Inc.*, No. 2:14-cv-00752 (E.D. Tex.). Pet. 1; Paper 4, 2.

C. Evidence Relied Upon

Petitioner relies on the following prior art:

European Telecommunications Standards Institute, *Digital cellular telecommunications system (Phase 2+); General Packet Radio Service (GPRS); Service description; Stage 2 (GSM 03.60 ver. 5.2.0)* (Dec. 1997) (Ex. 1002, “GSM 03.60”);

European Telecommunications Standards Institute, *Digital cellular telecommunications system (Phase 2+); General Packet Radio*

Service (GPRS); Mobile Station (MS) – Base Station System (BSS) interface; Radio Link Control / Medium Access Control (RLC/MAC) protocol (GSM 04.60 ver. 6.1.0 Release 1997) (Draft EN 301 349 V6.1.0, Aug. 1998) (Ex. 1003, “GSM 04.60”);

European Telecommunications Standards Institute, *Digital cellular telecommunications system (Phase 2+); Channel coding (GSM 05.03 ver. 6.1.1 Release 1997) (TS 100 909 V6.1.1, July 1998) (Ex. 1004, “GSM 05.03”);*

European Telecommunications Standards Institute, *Digital cellular telecommunications system (Phase 2+); Radio subsystem link control (GSM 05.08 ver. 6.3.1 Release 1997) (EN 300 911 V6.3.1, Mar. 1999) (Ex. 1005, “GSM 05.08”);*

European Telecommunications Standards Institute, *Digital cellular telecommunications system (Phase 2+); Mobile radio interface layer 3 specification (GSM 04.08 ver. 6.1.1 Release 1997) (RS 100 940 V6.1.1, Aug. 1998) (Ex. 1006, “GSM 04.08”);*

U.S. Patent No. 6,134,230, issued Oct. 17, 2000, filed Aug. 29, 1997 (Ex. 1007, “Olofsson”).

Petitioner also relies on portions of the Specification of the ’828 patent that allegedly constitute admissions of prior art. Pet. 8–11. Specifically, Petitioner identifies Ex. 1001, 1:45–49, 1:54–62, 2:12–22, 2:35–45, 3:22–39, 4:27–28, 4:39–45, 8:5–8, 8:17–24 (“Applicant’s Admitted Prior Art” or “AAPA”).

Petitioner also relies on the Declaration of Thomas E. Fuja, Ph.D. (Ex. 1009, “Fuja Decl.”).

D. The Asserted Grounds

Petitioner asserts the following grounds of unpatentability (Pet. 2–3):

Reference(s)	Basis	Claims Challenged
GSM 03.60, GSM 04.60, GSM 05.03, GSM 05.08, GSM 04.08, and Olofsson	§ 103(a)	16–28
AAPA	§ 103(a)	16–28

E. The '828 Patent

Global System for Mobile Communications (“GSM”) is an industry standard for cellular telephone communication. Ex. 1009 ¶ 35. General Packet Radio Service (“GPRS”) is a standard that can be added on to GSM networks and specifies the communication of packet data over GSM networks. *Id.* ¶ 36. According to the '828 patent, GPRS provides four alternative channel coding schemes, which specify the extent to which communications are encoded with details such as error correction and packet re-transmission. Ex. 1001, 1:47–63.

The choice of a coding scheme involves trade-offs. Stronger coding schemes can be advantageous in connections that would require more frequent re-transmission of data; however, increasing channel coding lowers the throughput of data over a connection. *Id.* at 1:63–2:6. According to the '828 patent, GPRS coding schemes were optimized for transmission of packet data where real-time transmission was not required and re-transmission could be tolerated better. *Id.* at 2:7–16. Speech and video, where delay and retransmission were less acceptable, could be transmitted with existing technology optimized for those transmissions. *Id.* at 2:16–17. The '828 patent addresses problems encountered transmitting time-sensitive

data (such as speech) over packet transmissions (e.g., Internet phone calls over GPRS). *Id.* at 2:18–23, 2:35–45.

In particular, the '828 patent describes a method for choosing a channel coding and/or interleaving scheme for a communication connection between a mobile station and a base station in a cellular packet radio system. Ex. 1001, Abstract. Figure 1, reproduced below, illustrates an example:

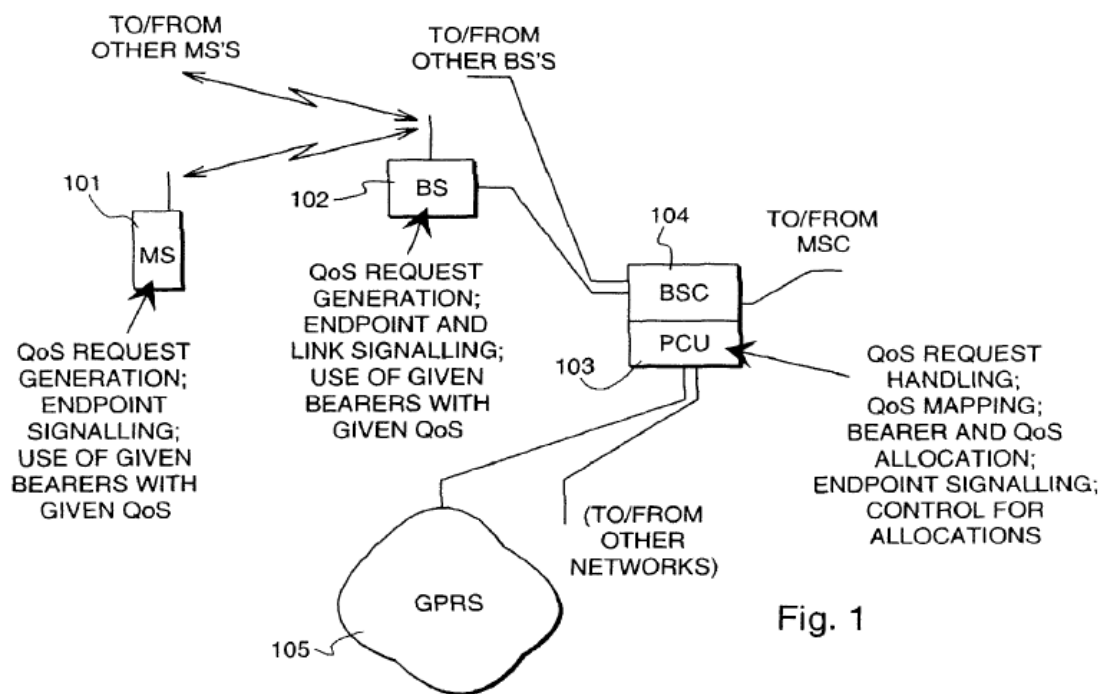


Figure 1 is a diagram of a cellular communication network. *Id.* at 4:3–4.

Mobile station 101 is connected, via an air interface, to base station 102, which is connected to base station controller (“BSC”) 104, which is coupled to packet control unit (“PCU”) 103, which, in turn, is coupled to GPRS network 105. *Id.* at 4:14–23. Mobile station 101 generates a request to set up a new bearer over a radio interface between the mobile station and base station 102. *Id.* at 4:39–42. The request can include fields that specify quality of service (“QoS”) parameters the mobile station would like the

bearer to have. *Id.* at 4:42–45. “Typical QoS parameters include but are not limited to mean delay, maximum delay, service precedence, bearer class, mean bitrate, maximum bitrate, minimum bitrate and so on.” *Id.* at 3:25–28.

In this example, PCU 103 is responsible for handling the request for bearer set-up. *Id.* at 5:11–15.

The PCU is capable of QoS mapping, which means that there exists an unequivocal correspondence between certain selections of QoS parameter values and certain channel coding and/or interleaving schemes. When the PCU 103 receives a request for bearer setup or redefinition, it takes the QoS parameter values contained within the request, maps them into a certain channel coding and/or interleaving scheme and includes those in the bearer allocation.

Id. at 5:18–26. Thus, “the PCU goes on to map the set of QoS parameters in the request into a certain bearer type, meaning especially a selection of channel coding and interleaving.” *Id.* at 6:7–10. When PCU 103 has made the allocation, it signals the allocation to base station 104 and mobile station 101, which then communicate using the allocated bearer. *Id.* at 6:63–66, 7:41–45.

Claim 16, reproduced below, is illustrative of the claimed subject matter:

16. An apparatus comprising:

at least one control processor; and

at least one computer program code, the at least one computer program code configured to be executed by the at least one control processor, to cause the apparatus to perform at least the following:

communicate a request message to a decision making device, said request message for requesting one of a communication connection to be established and an

established communication connection to be changed, and indicating at least one requested quality of service parameter associated with the requested communication connection, said at least one quality of service parameter to be used for selecting a channel coding scheme;

receive from said decision making device a channel coding scheme corresponding to said at least one quality of service parameter; and

apply said channel coding scheme when one of said requested communication connection is established and said established communication connection is changed.

II. ANALYSIS

A. *Claim Construction*

We interpret claims of an unexpired patent using the broadest reasonable construction in light of the specification of the patent in which they appear. *See* 37 C.F.R. § 42.100(b); *In re Cuozzo Speed Techs., LLC*, 793 F.3d 1268, 1278 (Fed. Cir. 2015), *cert. granted sub nom. Cuozzo Speed Techs. LLC v. Lee*, 136 S. Ct. 890 (U.S. Jan. 15, 2016) (No. 15-446). In applying a broadest reasonable construction, claim terms generally are given their ordinary and customary meaning, as would be understood by one of ordinary skill in the art in the context of the entire disclosure. *See In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). Neither party proposes the construction of any claim term. *See, e.g.*, Pet. 14. For purposes of this Decision, no claim term requires express construction.

B. *Asserted Grounds of Unpatentability*

A claim is unpatentable under 35 U.S.C. § 103(a) if the differences between the claimed subject matter and the prior art are “such that the

subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.” We resolve the question of obviousness on the basis of underlying factual determinations, including: (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level of skill in the art; and (4) objective evidence of nonobviousness, i.e., secondary considerations. *See Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966).

In an obviousness analysis, some reason must be shown as to why a person of ordinary skill would have combined or modified the prior art to achieve the patented invention. *See Innogenetics, N.V. v. Abbott Labs.*, 512 F.3d 1363, 1374 (Fed. Cir. 2008). A reason to combine or modify the prior art may be found explicitly or implicitly in market forces; design incentives; the “interrelated teachings of multiple patents”; “any need or problem known in the field of endeavor at the time of invention and addressed by the patent”; and the background knowledge, creativity, and common sense of the person of ordinary skill. *Perfect Web Techs., Inc. v. InfoUSA, Inc.*, 587 F.3d 1324, 1328–29 (Fed. Cir. 2009) (quoting *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418–21 (2007)).

1. *Alleged Obviousness of Claims 16–28 over GSM 03.60, GSM 04.60, GSM 05.03, GSM 05.08, GSM 04.08, and Olofsson*

Petitioner contends that claims 16–28 would have been obvious over GSM 03.60, GSM 04.60, GSM 05.03, GSM 05.08, GSM 04.08, and Olofsson. Pet. 2.

*a. Overview of GSM 03.60, GSM 04.60, GSM 05.03,
GSM 05.08, and GSM 04.08*

GSM is a set of standards developed by the European Telecommunications Standards Institute (“ETSI”) that describes a set of protocols (rules) for the communication of mobile phones over digital cellular networks, such that compliant pieces of equipment can communicate with each other. Ex. 1009 ¶ 35. GPRS is an addition to the GSM standard that provides for communication of packet-switched data. *Id.* ¶ 36.

The various standards and protocols are described in multiple documents, each addressing particular aspects of the communications. According to Dr. Fuja, “[i]t was . . . known and obvious to read different specifications alongside each other, and to combine their functionalities.” *Id.* ¶ 46. Additionally, Dr. Fuja testifies that “it was known and obvious to use these functionalities in the context of the components of a mobile device, e.g., an antenna, transmitter, receiver, baseband or other processor, memory, and an application processor.” *Id.*

Petitioner cites a subset of the GSM and GPRS standards documents in this ground. In particular, GSM 03.60 defines a service description for a GPRS on GSM. Ex. 1002 § 1. GSM 04.60 specifies the procedures used at a radio interface for the GPRS Medium Access Control / Radio Link Control (“MAC/RLC”) layer. Ex. 1003 § 1. GSM 05.03 describes a reference configuration of a transmission chain, specifies the data blocks given to an encryption unit, and specifies channel encoding, reordering, and interleaving. Ex. 1004 § 1. GSM 05.08 specifies the radio sub-system link control implemented in a mobile station, base station system, and mobile switching center of GSM systems. Ex. 1005 § 1. GSM 04.08 specifies the

procedures used at the radio interface for call control, mobility management, radio resource management, and session management for circuit-switched and GPRS services. Ex. 1006 §§ 0, 0.1.

Collectively, Petitioner refers to these specifications as the “Prior GSM/GPRS Specifications.” Pet. 7.

b. Overview of Olofsson

Olofsson describes a link protocol for communication between a mobile station and a base station. Ex. 1007, Abstract. Olofsson describes its technique in the context of GSM and GPRS. *Id.* at 1:11–21, 2:46–52, 5:4–17. Olofsson describes example hardware for implementing mobile communications, including a mobile station, a base station, and processors for performing encoding and interleaving. *Id.* at Fig. 4, 7:26–39, 8:7–24, 8:29–34.

c. Claims 16–28

Regarding claim 16, Petitioner argues that the Prior GSM/GPRS Specifications describe mobile stations (e.g., the “possible mobile station implementations” referenced in GSM 04.60) that necessarily include a “control processor” and “computer program code, the at least one computer program code configured to be executed by the at least one control processor.” Pet. 16. In the alternative, Petitioner argues that Olofsson describes a microprocessor programmed to perform functions similar to those recited in claim 16 and that a skilled artisan would have recognized that Olofsson’s microprocessor could be programmed to implement the teachings of the Prior GSM/GPRS Specifications. *Id.* at 17–18. According

to Petitioner, Olofsson explicitly states that its teachings are for use in a GSM/GPRS system. *Id.* at 18 (citing Ex. 1009 ¶ 63). On this evidence, Petitioner has made a threshold showing that a skilled artisan would have recognized that Olofsson's microprocessor could have been programmed with computer program code implementing functions described in the Prior GSM/GPRS Specifications.

Regarding the limitation "communicate a request message to a decision making device, said request message for requesting one of a communication connection to be established and an established communication connection to be changed, and indicating at least one requested quality of service parameter associated with the requested communication connection" as recited in claim 16, Petitioner has two theories as to how this is taught in the GSM/GPRS Specifications. We first address Petitioner's second argument, that the establishment of a "Temporary Block Flow (TBF)," described in GSM 04.60, teaches this limitation.

As part of establishing a TBF, a mobile station initiates a packet access procedure by sending a PACKET CHANNEL REQUEST message to the network. Ex. 1003 §§ 7, 7.1, 7.1.2.1. The network orders the mobile station to send a PACKET RESOURCE REQUEST. *Id.* § 7.1.3.1. Petitioner argues that the PACKET RESOURCE REQUEST is a "request message to a decision making device, said request message for requesting one of a communication connection to be established and an established communication connection to be changed," as recited in claim 16. Pet. 19–20. The PACKET RESOURCE REQUEST includes a "Channel Request Description," Ex. 1003 § 11.2.16, which, in turn, includes a "priority" field,

id. § 12.7. According to Petitioner, “[t]he Priority field indicates the priority of the requested temporary block flow.” Pet. 19 (citing Ex. 1009 ¶ 75). Petitioner contends that the priority field is “a requested quality of service parameter associated with the requested communication connection,” communicated in the “request message,” as recited in claim 16. *Id.* at 22.

Patent Owner responds that “neither Petitioner nor its declarant offer any explanation as to why a person of ordinary skill in the art would come to the conclusion that the priority field of a Packet Resource Request is a requested quality of service parameter for a TBF.” Prelim. Resp. 12. We agree. Petitioner’s only support for this argument is the testimony of Dr. Fuja who states, in conclusory fashion, and without citation to evidence, that “[a person of ordinary skill in the art] would recognize that in the context of a connection in the form of a TBF the PRIORITY field is a requested quality of service parameter that is part of request messages communicated by a mobile station to a decision making device.” Ex. 1009 ¶ 76. Dr. Fuja’s testimony includes little persuasive evidence or reasoning. Accordingly, we assign it little weight. *See* 37 C.F.R. § 42.65(a) (“Expert testimony that does not disclose the underlying facts or data on which the opinion is based is entitled to little or no weight.”).

On this record, Petitioner is not reasonably likely to show that GSM 04.60’s description of establishment of a TBF teaches a request message “indicating at least one requested quality of service parameter associated with the requested communication connection,” as recited in claim 16. Each of independent claims 20, 24, and 25 includes a limitation substantially similar to claim 16’s “indicating at least one requested quality of service parameter associated with the requested communication connection.” For

the same reasons, GSM 04.06's disclosure of TBF establishment does not teach these similar limitations of claims 20, 24, and 25.

Petitioner's other argument as to "communicat[ing] a request message to a decision making device," as recited in claim 16, is directed to the "Activate PDP Context Request" and "Activate AA PDP Context Request"¹ messages described in GSM 03.60 and GSM 04.08. Petitioner argues that these messages are examples of messages communicated by a mobile station to a Serving GPRS Support Node ("SGSN"), which Petitioner argues is an example of a "decision making device." Pet. 18–19.

A PDP is a packet data protocol, such as Internet Protocol ("IP") and X.25. Ex. 1002 § 3.2. GSM 03.60 states: "Each PDP address is described by an individual PDP context in the MS, the SGSN, and the GGSN [Gateway GPRS Support Node]. Every PDP context exists independently in one of two PDP states. The PDP state indicates whether the PDP address is activated for data transfer or not." Ex. 1002 § 9.1. "In ACTIVE state, the PDP context for the PDP address in use is activated in MS, SGSN and GGSN. The PDP context contains mapping and routeing information for transferring PDUs for that particular PDP address between MS and GGSN." *Id.* § 9.1.2. The Activate PDP Context Request is a message sent from the MS to the SGSN to activate a PDP context. *Id.* § 9.2.2.1; Ex. 1006 § 9.5.1. Petitioner argues that such a message "request[s] that a communication connection be established," as recited in claim 16. Pet. 19. Petitioner does

¹ Petitioner's arguments for Activate PDP Context Request and Activate AA PDP Context Request are virtually the same, citing parallel sections in GSM 03.60 and GSM 04.08. We focus on Activate PDP Context Request. Our analysis applies equally to Activate AA PDP Context Request.

not explain how activating a PDP context corresponds to establishing a communication connection. Petitioner cites to Dr. Fuja, who merely repeats Petitioner's argument without elaboration or evidence. Ex. 1009 ¶ 70.

An Activate PDP Context Request message can include parameters such as "QoS Requested" (also shown as "Requested QoS") that "indicates the desired QoS profile." Ex. 1002 § 9.2.2.1; Ex. 1006 § 9.5.1. According to GSM 03.60, "some PDP addresses may be associated with Email that can tolerate lengthy response times. Other applications cannot tolerate delay and demand a very high level of throughput, interactive applications being one example. These different requirements are reflected in the QoS profile." Ex. 1002 § 9.2.2.1. As shown in more detail in GSM 04.08, the QoS Requested field includes sub-fields for "Delay Class," "Reliability Class," "Precedence Class," "Peak Throughput," and "Mean Throughput." Ex. 1006 §§ 9.5.1 (showing that QoS Request includes Quality of Service information element), 10.5.6.5 (showing details of Quality of Service information element). Petitioner argues that each of these sub-fields is a "requested quality of service parameter," as recited in claim 16. Pet. 20–21. Regarding "said at least one requested quality of service parameter to be used for selecting a channel coding scheme," as recited in claim 16, Petitioner refers to its discussion of the claim limitation "receive from said decision making device a channel coding scheme corresponding to said at least one quality of service parameter," *id.*, to which we now turn.

As to the limitation "receive from said decision making device a channel coding scheme corresponding to said at least one quality of service parameter," Petitioner argues that, once a PDP context is activated, the mobile station receives a "Packet Uplink Assignment" message from the

SGSN. Pet. 22. Petitioner cites to GSM 04.60's discussion of assigning a radio resource to be used by a mobile station for a TBF. *Id.* (citing Ex. 1003 § 7.1.2.2.1). This is part of the TBF establishment procedure Petitioner cites as its alternative example of communicating a request message, addressed above. Petitioner does not cite to evidence that this assignment is performed by the SGSN.

The "Packet Uplink Assignment" message includes a "Channel Coding Command" field, which "indicates the channel coding scheme that the mobile station shall use when transmitting on the uplink," and a "TLLI Block Channel Coding field," which "indicates the channel coding command that the mobile station shall use for any RLC data block containing a TLLI field in the RLC data block header." Ex. 1003 § 11.2.29. Petitioner also notes that the network sends a "Packet Uplink ACK/NACK" message to the mobile station to indicate the status of received RLC data blocks and includes a "Channel Coding Command" field. Pet. 23 (citing Ex. 1003 § 11.2.28). In light of these disclosures, Petitioner argues:

A person of ordinary skill in the art would understand that the channel coding scheme that is sent to the mobile station in the "Channel Coding Command" field is selected by the network to satisfy the "Negotiated QoS," *i.e.* the quality of service profile offered to the mobile in response to the "Requested QoS", under the channel conditions existing at that time.

Pet. 23.

Patent Owner responds that the selection of a channel coding scheme cited by Petitioner takes place after the network has established a PDP context, during the establishment of a TBF. Prelim. Resp. 10. As explained above, Petitioner cites to the description of a TBF establishment, not the PDP context establishment, as a teaching of an apparatus encoded to

“receive from said decision making device a channel coding scheme,” as recited in claim 16. According to Patent Owner, while the QoS Information Element is communicated during the PDP context establishment, Petitioner has not shown that the QoS Information Element also is communicated during the TBF establishment procedure. *Id.* at 11. Patent Owner further argues that the QoS Information Element does not include a field specifying a channel coding scheme. *Id.* at 8. According to Patent Owner, Petitioner has not explained how the Channel Coding Command (the alleged “channel coding scheme of claim 16) is related to (or corresponds to) the QoS Information Element (the alleged “quality of service parameter”). Prelim. Resp. 10.

We agree with Patent Owner. Claim 16 requires that the apparatus be encoded to receive from a decision making device “a channel coding scheme corresponding to said at least one quality of service parameter.” Thus, Petitioner must show that the Channel Coding Command corresponds to the QoS Information Element, or its sub-fields, identified as the at least one quality of service parameter. Petitioner’s only identified evidence of such a correspondence is Dr. Fuja’s testimony that:

A POSITA would understand that the channel coding scheme that is included in the CHANNEL_CODING_COMMAND as part of the PACKET UPLINK ASSIGNMENT and the Packet Uplink Ack/Nack message is selected by the network to satisfy the QoS Profile that was negotiated during the PDP context activation procedure under the existing channel conditions.

Ex. 1009 ¶ 81. As Patent Owner argues (Prelim. Resp. 9), this testimony is conclusory and lacks any explanation as to why the Channel Coding Command is selected to satisfy the QoS profile. Prelim. Resp. 9. Aside from this conclusory statement, neither Petitioner nor Dr. Fuja points to any

evidence that the selection of the Channel Coding Command of GSM 04.60 has any relationship to the QoS Information Element of GSM 03.60.

Petitioner's evidence and argument is insufficient to show that the Prior GSM/GPRS Specifications or Olofsson teach this limitation. Moreover, as explained above, Petitioner has not shown sufficiently that the Channel Coding Command is received from the SGSN, which Petitioner identifies as the "decision making device" of claim 16.

We cannot conclude, on this record, that Petitioner is likely to show that the GSM/GPRS Specifications or Olofsson teach an apparatus encoded to "receive from said decision making device a channel coding scheme corresponding to said at least one quality of service parameter," as recited in claim 16. The remaining independent claims have analogous limitations that Petitioner, for the same reasons, has failed to show in the Prior GSM/GPRS Specifications or Olofsson. Specifically, independent claim 20 recites "a receiver configured to receive from the network element, a channel coding scheme corresponding to said at least one quality of service parameter"; independent claim 24 recites "receive from said decision making device at least one of a channel coding and interleaving scheme corresponding to said at least one quality of service parameter"; and independent claim 25 recites "receiving from said decision making device a channel coding scheme corresponding to said at least one quality of service parameter."

Claims 17–19 depend from claim 16; claims 21–23 depend from claim 20; and claims 26–28 depend from claim 25. Petitioner does not present argument or evidence to remedy the deficiencies detailed above for claims 16, 20, and 25.

Accordingly, on this record, Petitioner has not established a reasonable likelihood that it would prevail with respect to any of claims 16–28 as obvious over GSM 03.60, GSM 04.60, GSM 05.03, GSM 05.08, GSM 04.08, and Olofsson.

2. *Alleged Obviousness of 16–28 over AAPA*

Petitioner contends that claims 16–28 would have been obvious over AAPA alone. 35 U.S.C. § 311(b) provides that “[a] petitioner in an *inter partes* review may request to cancel as unpatentable 1 or more claims of a patent only on a ground that could be raised under section 102 or 103 and *only on the basis of prior art consisting of patents or printed publications*” (emphasis added). Further, 37 C.F.R. § 42.104(b)(4) provides that the petition “must specify where each element of the claim is found *in the prior art patents or printed publications relied upon*” (emphasis added). This ground, which does not identify any patents or printed publications, fails to comply with Section 311(b) or Rule 42.104(b)(4). Accordingly, we decline to institute an *inter partes* review of claims 16–28 as obvious over AAPA.

III. CONCLUSION

Petitioner has not established a reasonable likelihood that it would prevail with respect to any of claims 16–28. Accordingly, we do not institute an *inter partes* review of the ’828 patent.

IV. ORDER

Accordingly, it is:

ORDERED that, pursuant to 35 U.S.C. § 314(a), an *inter partes* review is not instituted for claims 16–28 of U.S. Patent No. RE 44,828.

IPR2015-01987
Patent RE 44,828

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