REMARKS

Claims 1-6 and 16 are subject to reexamination. Claims 7-15 are not subject to reexamination. Claims 1-6 and 16 stand rejected. Reconsideration in view of the following remarks is respectfully requested.

Rejections Under 35 U.S.C. 102

Jokinen

The Office Action rejects claims 1 and 4 under 35 U.S.C. 102 as anticipated by U.S. Patent No. 5,729,534 to Jokinen et al. ("Jokinen"). This rejection is respectfully traversed because Jokinen fails to teach or suggest all claimed features of claims 1 and 4.

Claim 1 recites, among other things, "dynamically adjusting a number of time-slot channels assigned to one of the first and second media during the data transmission to remain within limits of a desired level of service." Jokinen does not disclose or suggest such features. Specifically, Jokinen does not disclose ***dynamically adjusting*** a number of time slot channels ***during the data transmission***, as recited in claim 1. The Office Action asserts that Jokinen, column 5, line 60 to column 6, line 3, along with claims 1 and 7, discloses such a feature. Office Action, p. 6. Patent Owner respectfully disagrees. Jokinen discloses that:

> "The base transceiver stations 14 measure the quantity of traffic transmitted on the packet radio channel. Of course, ***the channel allocation behavior in a cell must be examined carefully before application***, for example on the basis of traffic measurements of the cell concerned or on the basis of history data obtained from corresponding cells elsewhere. In the utilization of a channel there is a certain percentage limit, and at a utilization ratio higher than this the channel becomes

> overloaded and the service level weakens. If the utilization ratio of a channel reaches this value, another time slot must be reserved for traffic."

Jokinen, 5:54-65. Thus, Jokinen's system, by default, allocates one time slot to GRPS. If, however, the traffic within the cell is higher than a certain utilization ratio for the cell, the base station can reserve an additional slot for GRPS "***before application***" of a new data transmission. For at least that reason Jokinen does not disclose "**dynamically adjusting** a number of time-slot channels assigned to one of the first and second media **during the data transmission** to remain within limits of a desired level of service." Claim 4 depends from and adds limitations to claim 1, and is therefore patentable over Jokinen for at least the same reasons.

In addition, claim 4 recites "determining the desired level of service for one of the first and second media during the data transmission." Jokinen fails to disclose this feature. The Office Action cited claim 9 of Jokinen as disclosing this feature. Office Action, p. 6. Claim 9 of Jokinen recites "[a] method according to claim 7, characterized in that the determination of the threshold values is based on at least one of long-term measurement of traffic behavior, and an adjustment of at least one of the threshold values on the basis of the traffic measurement result over a specified time period." Nothing in claim 9 of Jokinen discloses determining a desired level of service ***during the data transmission***, as recited in claim 1. Claim 9 merely discloses that the "threshold values" are determined based on long-term measurement or over a "specified time period." And further, Jokinen expressly states that the specified time period is a "past" time period. Jokinen, 6:11. For at least this additional reason, Jokinen fails to disclose the features of claim 4.

Withdrawal of the rejection of claims 1 and 4 under 35 U.S.C. § 102 is therefore respectfully requested.

Joerssen

The Office Action rejects claims 1, 3, 4 and 16 under 35 U.S.C. 102 as anticipated by U.S. Patent No. 7,039,031 to Joerssen et al. ("Joerssen"). This rejection is respectfully traversed because Joerssen fails to teach or suggest all claimed features of claims 1, 3, 4 and 16.

Claim 1 recites, among other things, "dynamically adjusting a number of time-slot channels assigned to one of the first and second media during the data transmission to remain within limits of a desired level of service." Joerssen does not disclose or suggest such features. Specifically, Joerssen does not disclose dynamically adjusting a number of time-slot channels either "during the data transmission" or "to remain within limits of a desired level of service," as recited in claim 1. The Office Action points to three disclosures of Joerssen allegedly relevant to this limitation, but those disclosures seem to apply only to the question of whether Joerssen discloses the concept of dynamically adjusting time slots in the general sense and do not appear to address the other features of the subject claim limitation. The Office Action first cites column 6, lines 23-27 as allegedly disclosing that "slot length may be varied in the LPRF network, which requires dynamic adjustment of the time slots." Office Action, p. 7. This passage does not disclose dynamic adjustment "during the data transmission" or "to remain within limits of a desired level of service," and the Office Action does not so assert. In fact, Joerssen expressly discloses that the control unit 80 will only allocate LPRF time slots when the phone unit 62 is not transmitting or receiving – "having identified

the period of ***next*** transmission by the mobile terminal in the mobile network, the control unit 80 can create an allocation pattern by allocating any LPRF time slots…" Joerssen, 6:59-67.

The Office Action next cites column 7, lines 12-15 as allegedly disclosing that "communication rates in the LPRF network may vary, depending on the number of devices in the LPRF network." Office Action, p. 7. As with the previous passage, this passage does not disclose dynamic adjustment "during the data transmission" or "to remain within limits of a desired level of service," and the Office Action does not so assert.

Finally, the Office Action cites claim 10 of Joerssen, which recites "[a] terminal as claimed in claim 2, wherein said allocation patterns are variable being controlled by said second transceiver means." This passage also fails to disclose dynamic adjustment "during the data transmission" or "to remain within limits of a desired level of service," and the Office Action does not so assert.

For at least these reasons, the Office Action fails to establish a *prima facie* case that Joerssen discloses all features of claim 1. And Joerssen does not disclose all such features at least because Joerssen fails to disclose dynamically adjusting a number of time-slot channels either "during the data transmission" or "to remain within limits of a desired level of service,"

Claims 3, 4, and 16 depend from and add limitations to claim 1, and are therefore patentable over Joerssen for at least the same reasons.

Withdrawal of the rejection of claims 1, 3, 4, and 16 under 35 U.S.C. § 102 is therefore respectfully requested.

Rejections Under 35 U.S.C. 103

Claims 5, 6, and 16 are rejected under 35 U.S.C. 103 as being unpatentable over Jokinen. Claims 5, 6, and 16 depend from and add limitations to claim 1. As discussed above, Jokinen fails to teach or suggest all features of claim 1. For at least that reason, Jokinen fails to teach or suggest the features of claims 5, 6, and 16.

Claims 2 and 3 are rejected under 35 U.S.C. 103 as being unpatentable over Joerssen in view of Nevo. Claims 2 and 3 depend from and add limitations to claim 1. As discussed above, Joerssen fails to teach or suggest all features of claim 1. Nevo does not cure the deficiencies of Joerssen as to claim 1, and the Office Action does not so assert. For at least that reason, the combination of Joerssen and Nevo, taken alone or in combination, fails to teach or suggest the features of claims 2 or 3.

Withdrawal of the rejection of claims 2, 3, 5, 6, and 16 under 35 U.S.C. § 102 is therefore respectfully requested.

C. Conclusion

For at least the reasons set forth above, Applicant respectfully submit that the claims should be held allowable and a reexamination certificate should be issued. Favorable consideration and prompt allowance are respectfully requested.

Respectfully submitted,

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