
Remarks

These remarks are submitted in response to the Non-Final Office Action of January 4, 2016. At the time of the Office Action, claims 1-25 were pending. Claims 1, 2, 8 and 10 have been amended and duplicate claim 24 has been renumbered 25. No new matter has been added.

I. Claim Objections

Claim 24 is objected to because of the following informalities: two claims have same number 24. Duplicate claim 24 has been renumbered 25. Withdrawal of this objection is respectfully requested.

II. Claim Rejections Under 35 U.S.C § 103

Claims 1-6, 8 and 10-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. Appln. Pub. No. 2009/0042532 to Bienas et al. (Bienas) in view of U.S. Pat. Appln. Pub. No. 2009/0323634 to Kim et al. (Kim).

Among the features of independent claim 1 that are neither taught nor suggested by the cited art of record are “sending, by a communication device comprising a processor, to each of a plurality of communication nodes a request for bandwidth utilization information,” “receiving, by the communication device, the bandwidth utilization information from each of the plurality of communication nodes, wherein the bandwidth utilization information includes a measure of data throughput associated with the plurality of communication nodes,” and “initiating, by the communication device, communications with a first communication node selected from the plurality of communication nodes according to a comparison of the bandwidth utilization information and the measure of quality of the communication link of each of the plurality of communication nodes.”

Bienas discloses user equipment including a receiver, a measurement circuit and “a controller configured to control the measurement circuit such that a first measurement is carried out using a first frequency bandwidth, thereby determining a first receiving quality.” Bienas, Abstract. As readily admitted by the Office Action, “Bienas does not explicitly disclose sending, by a communication device comprising a processor, to each of a plurality of communication nodes a request for *bandwidth utilization* information.” Office Action, p. 5 (emphasis added). In

fact, Bienas also does not disclose receiving bandwidth utilization information. Simply put, ‘frequency bandwidth’ is a measure of how wide, measured in Hz for example, is the frequency band. *See, e.g.*, Bienas, Fig. 5. In contrast, ‘bandwidth utilization’ relates to data throughput that communication nodes can provide, which is measured, for example, in Mbps. *See, e.g.*, Specification at [0314]-[0315].

In addition, in the portions cited by the Office Action for the claimed initiating communications step, Bienas discloses:

Then, in 606, the UE 102 carries out a second measurement for those radio cells, for which in 604 it has been determined that their received signals have a sufficiently high receiving quality. In an embodiment of the invention, the second measurement is carried out in a second frequency portion, which may have a larger bandwidth (in other words, the bandwidth is increased) compared with the first frequency portion used in the first measurement. In an embodiment of the invention, the receiving quality is determined in the second measurement using reference signals that are transmitted in a larger bandwidth (compared with the first frequency portion) or in the entire bandwidth.

Bienas, para. [0069]. Bienas also discloses in further cited portions that “the UE 102 compares the combined values (or in an alternative embodiment of the invention, all the collected values) with a pre-defined threshold value. Mobile radio cells, the receiving power of which are below the predefined threshold value are classified as inappropriate.” *Id.*, para. [0088]. Thus, Bienas teaches determining whether a node is appropriate based on received power. Since Bienas does not teach user equipment requesting bandwidth utilization, which the Office Action admits, Bienas further does not teach or suggest initiating communications with a node selected “according to a comparison of the bandwidth utilization information *and* the measure of quality of the communication link,” as recited by independent claim 1. Kim fails to cure the deficiencies of Bienas.

Kim discloses a “case where the power saving class configuration information of [a] previous service base station is updated through a predetermined parameter value after handover,” as illustrated in Fig. 17. Kim, para. [0224]. Kim further discloses that user equipment sends a ranging request message to a handover target base station, and receives a ranging response message, which “includes a power saving class update parameter and various power saving class parameters to be updated.” Kim, para. [0226]. But nowhere within the

portions of Kim cited by the Office Action does Kim teach or suggest that the ranging response message includes bandwidth utilization information. In the absence of any teaching or suggestion of these features of independent claim 1, claim 1 is allowable over the cited art of record.

Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bienas in view of Kim and in further view of U.S. Pat. Appln. Pub. No. 2012/0269110 to Walker et al. (Walker).

Dependent claims 2-9 depend from independent claim 1, and incorporate by reference all the features found therein, and are therefore allowable for the same reasons expressed above. These claims include additional features, which in combination with the features incorporated by reference, are not disclosed by the cited art of record.

Independent claim 10 recites a machine-readable storage device, comprising instructions, which when executed by a circuit, cause the circuit to perform operations including: “receiving bandwidth utilization information from each of a plurality of communication nodes, wherein the bandwidth utilization information includes a measure of data throughput associated with the plurality of communication nodes” and “initiating communications with a first communication node selected from the plurality of communication nodes according to a comparison of the bandwidth utilization information and the measure of quality of the communication link of each of the plurality of communication nodes.” For the same reasons expressed above in connection with claim 1, both Bienas and Kim fail to disclose receiving bandwidth utilization from each node and initiating communications with a selected node “according to a comparison of the bandwidth utilization information and the measure of quality of the communication link,” as required by independent claim 10. In the absence of any teaching or suggestion of these features of independent claim 10, claim 10 is allowable over the cited art of record.

Dependent claims 11-17 depend from independent claim 10, and incorporate by reference all the features found therein, and are therefore allowable for the same reasons expressed above. These claims include additional features, which in combination with the features incorporated by reference, are not disclosed by the cited art of record.

Independent claim 18 recites a communication device including a memory to store instructions and a processor coupled to the memory, which performs operations responsive to

executing the instructions including: “receiving bandwidth utilization information associated with each of a plurality of communication nodes” and “initiating communications with a communication node selected from the plurality of communication nodes according to a comparison of the bandwidth utilization information and a measure of quality of a communication link of each of the plurality of communication nodes.” For the same reasons expressed above in connection with claim 1, both Bienas and Kim fail to disclose receiving bandwidth utilization information associated with each node and initiating communications with a selected node “according to a comparison of the bandwidth utilization information and a measure of quality of a communication link of each of the plurality of communication nodes,” as required by independent claim 18. In the absence of any teaching or suggestion of these features of independent claim 18, claim 18 is allowable over the cited art of record.

Dependent claims 19-25 depend from independent claim 18, and incorporate by reference all the features found therein, and are therefore allowable for the same reasons expressed above. These claims include additional features, which in combination with the features incorporated by reference, are not disclosed by the cited art of record.

III. Conclusion

This application is in condition for allowance, which action is respectfully requested. It is respectfully requested that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion. Please charge any deficiencies or credit any overpayment to Deposit Account No. 50-5199.

Respectfully submitted,

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