

REMARKS/ARGUMENTS

Claims 1-30 are currently pending in this application.

Request for an Interview

If any of the claims submitted herewith will be rejected by the Examiner, the Applicant respectfully requests a telephonic interview.

Double Patenting Rejection

Claims 1-30 are rejected under the judicially created doctrine of non-statutory obviousness-type double patenting as being unpatentable over claims 1-27 of U.S. Patent No. 8,401,576.

A Terminal Disclaimer is submitted herewith to overcome the non-statutory double patenting rejection. Accordingly, withdrawal of the double patenting rejection is respectfully requested.

Claim Rejections - 35 U.S.C. § 102

Claims 1, 29, and 30 are rejected under pre-AIA 35 U.S.C § 102(b) as being anticipated by U.S. Patent No. 6,678,524 to Hansson et al. (hereinafter “Hansson”).

Pending claim 1 recites in relevant part:

1. *A mobile wireless device . . . comprising: . . .*
 - [a] *WLAN transceiver adapted to:*
 - (i) *transmit a request . . . via the WLAN base station and the Internet, to a server that maintains a subscriber list, to determine whether the wireless device of the addressed recipient corresponds to a subscriber of the service, wherein the server that maintains the subscriber list is located outside of the core network; and*
 - (ii) *receive a response from the server that maintains the subscriber list, via the WLAN base station and the Internet, indicating whether the wireless device of the addressed recipient corresponds to a subscriber of the service . . .*

Referring to FIG. 1, Hansson discloses at column 2, lines 57 to column 3, line 1 that a “personal digital cellular (PDC) system 2” . . . “includes a circuit-switched network 4 and a packet-switched network 6.” . . . “The circuit-switched and packet-switched networks 4 and 6 are also interconnected with a base station (BS) 14 to communicate with mobile stations 16 via an air interface 18 between the base station 14 and each mobile station 16.” At column 3, lines 17 to 19, Hansson discloses that “a gateway mobile switching center (GMSC) 24 links the circuit-switched network 4 to external networks.”

Applicant: REMBRANDT MESSAGING TECHNOLOGIES II, LP.
Application No.: 16/897,161

The GMSC “selects whether [a short message service] SMS message will be delivered via [a] circuit-switched network 4 or [a] packet-switched network 6” according to column 5, lines 24-26.

FIG. 1 of Hansson is reproduced below.

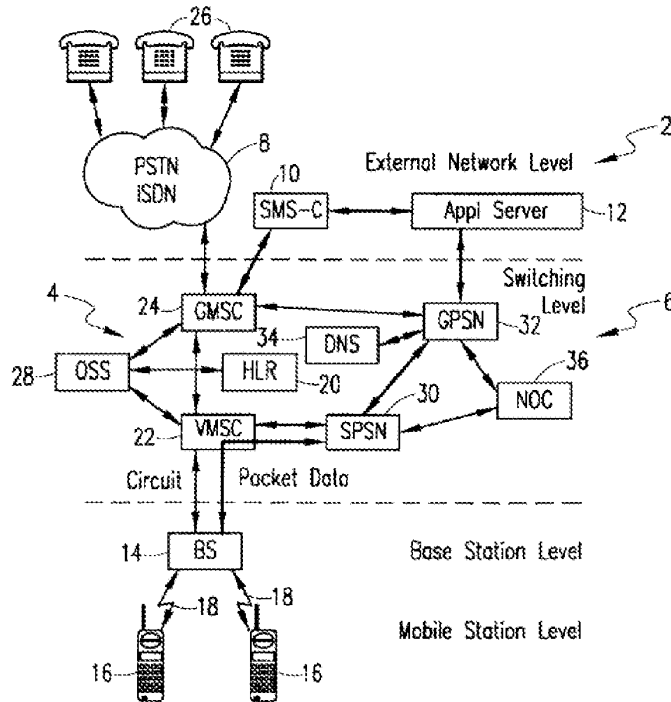


FIG. 1

In FIG. 1, Hansson distinguishes mobile stations 16, which operate at a mobile station level, from an application server which operates at an external server level and network elements such as a GMSC and Gateway Packet Support Node (GPSN) which operate at a switching level.

Applicant: REMBRANDT MESSAGING TECHNOLOGIES II, LP.
Application No.: 16/897,161

Plainly, from FIG. 1, one of ordinary skill in the art will recognize that none of the application server, GMSC or GPSN are equivalent to a “mobile wireless device” as is claimed. For this reason, any function disclosed as being performed by the application server, GMSC or GPSN should not be used as evidence to anticipate the “mobile wireless device” of claim 1. See MPEP 2152.02(b) which recites that “in order for a prior art document to describe a claimed invention such that it is anticipated under AIA 35 U.S.C. 102(a)(1) or (a)(2), it must disclose all elements of the claimed invention arranged as they are in the claim.”

In Hansson, a GMSC “sends a mobile station capability request message 42 to [a home location register] HLR 20 to request information regarding the mobile station subscriptions and information indicating which packet data bearers are used by the mobile station 16.” See Hansson at column 2, lines 14 to 18.

However, for at least the reason that the GMSC of Hansson is not mobile, Hansson does not disclose a “mobile wireless device” comprising a “WLAN transceiver adapted to” . . . “transmit a request, including at least information corresponding to the mobile phone number of the wireless device of the addressed recipient, via [a] WLAN base station and the Internet, to a server that maintains a subscriber list, to determine whether the wireless device of the addressed recipient corresponds to a subscriber of the service” as is recited by claim 1.

Similarly, in Hansson, a response received by the GMSC from the HLR (or by the GPSN from the HLR) is not received by “a mobile wireless device” as is claimed.

This is clearly illustrated in FIG. 2 of Hansson, reproduced below, which shows the interaction between the GMSC and the HLR.

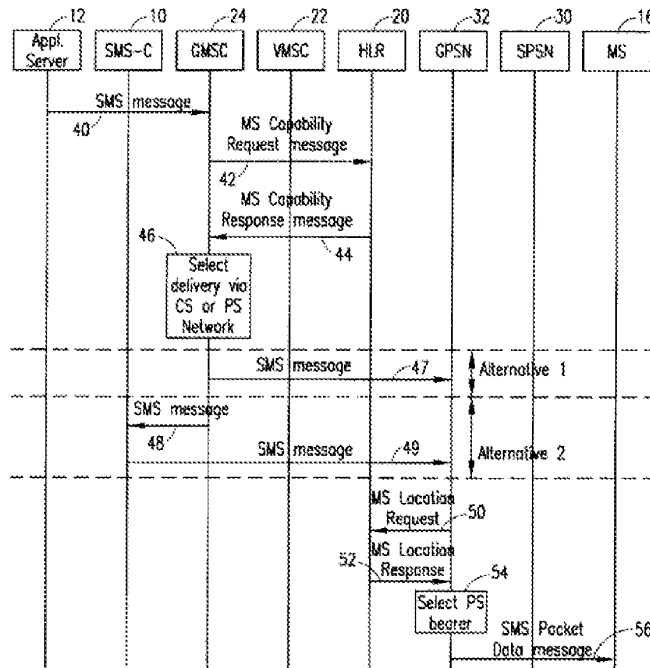


FIG. 2

As can be seen from FIG. 2, a mobile station capability response message 44 is received by the GMSC in response to a mobile station capability request message 42 sent by the GMSC. However, since the response message 44 is not provided to a “mobile wireless device,” Hansson fails to disclose a “mobile wireless device” which “receive[s] a response from the server that maintains the subscriber list, via the WLAN base station and the Internet, indicating whether the wireless device of the addressed recipient corresponds to a subscriber of the service” as is recited by claim 1.

Applicant: REMBRANDT MESSAGING TECHNOLOGIES II, LP.
Application No.: 16/897,161

Furthermore, Hansson fails to disclose that the response from the HLR to the GMSC would be made “via the WLAN base station and the Internet” as is claimed. In fact, Hansson is silent to “a WLAN base station.”

Because the response from the HLR to the GMSC (or GPSN) is not received by a mobile station, a mobile station of Hansson is not provided with an indication as to “whether the wireless device of the addressed recipient corresponds to a subscriber of the service” as is required by claim 1. This fact represents a distinction material to the patentability of the pending claims. According to claim 1, the claimed “mobile wireless device” is “adapted to select a packet-switched bearer for transmission of a message,” “adapted to transmit a message to the addressed recipient via the cellular base station,” and “adapted to transmit a message limited to one or more binary-encoded characters” based at least in part on a response. However, in Hansson, a mobile station is not disclosed as being adapted, based at least in part on the response, according to any of the above recited claim elements.

Hansson’s reliance by the GMSC (or GPSN) on information stored in the HLR runs contrary to the plain language of pending claim 1 which recites that “the server that maintains the subscriber list is located outside of the core network.” To the contrary, one of ordinary skill in the art will recognize that an HLR, to which the GMSC and GPSN interface with, resides within a cellular core network.

Applicant: REMBRANDT MESSAGING TECHNOLOGIES II, LP.
Application No.: 16/897,161

For these reasons and other reasons not articulated above, Hansson does not anticipate, under 35 U.S.C. § 102, all of the claim elements arranged as they are in claim 1.

Claims 29 and 30 recite similar, yet not identical claim elements of claim 1 and the Applicant believes these claims are allowable over Hansson for the same reasons as claim 1.

Based on the arguments presented above, withdrawal of the non-final rejection of claims 1-30 is respectfully requested.

Applicant: REMBRANDT MESSAGING TECHNOLOGIES II, LP.
Application No.: 16/897,161

Conclusion

If the Examiner believes that any additional minor formal matters need to be addressed in order to place this application in condition for allowance, or that a telephonic interview will help to materially advance the prosecution of this application, the Examiner is invited to contact the undersigned by telephone at the Examiner's convenience.

In view of the foregoing, the Applicant respectfully submits that the present application, including claims 1-30, is in condition for allowance and a notice to that effect is respectfully requested.

Respectfully submitted,

**REMRANDT MESSAGING
TECHNOLOGIES II, LP.**

By: /Brian P. Gordaychik/
Brian P. Gordaychik
Registration No. 62,179

Volpe and Koenig, P.C.
30 South 17th Street
Philadelphia, PA 19103-4009
Telephone: (215) 568-6400
Facsimile: (215) 568-6499

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Enclosure(s)