

IN RE IMES, Appeal No. 2014-1206 (Fed. Cir. January 29, 2015). Before Lourie, Moore, and Chen. Appealed from the Patent Trial and Appeal Board (PTAB).

Background:

Kevin Imes's application is directed to a device for communicating digital camera image and video information over a network. The PTAB affirmed the examiner's rejections of all pending claims as either anticipated by or obvious over various references. On appeal, Mr. Imes challenged only the rejections of independent claims 1, 34, and 43 and of their dependent claims by virtue of their dependence from the independent claims.

Issues/Holdings:

(1) With respect to claims 1-5, did the PTAB err by deciding that Schuetzle discloses a second wireless communication device? Yes, reversed and remanded.

(2) With respect to claims 34-42 and 43-47 did the PTAB err in concluding that Knowles discloses the claimed "communication module...operable to wirelessly communicate streaming video to a destination"? Yes, reversed and remanded.

Discussion:

Independent claim 1 recites an electronic device that includes a housing that stores first and second wireless communication modules. Schuetzle discloses a system where a camera can send image information to a computer system via a wireless communication interface, via a tethered interface, and/or by inserting a removable memory card into the system. The examiner concluded that a removable memory card is "wireless" because in order to communicate information to a computer system, it must be removed from the camera and inserted into the computer system. *In other words, no wire is utilized.* The PTAB affirmed the rejection.

The Court held that the PTAB erred in its definition of "wireless". The Imes application consistently uses the term "wireless" to refer to methods and devices that carry waves through atmospheric space, such as Bluetooth and various cellular protocols. The removable memory card is not a wireless communication module under the broadest reasonable interpretation of that term in view of the specification.

Independent claims 34 and 43 each recite a communications device comprising a "communications module . . . operable to wirelessly communicate streaming video to a destination." Knowles discloses a wireless digital camera system that transmits images over the Internet by allowing a user to take multiple consecutive still images and queuing the images so that they can be serially transmitted to a server. The Examiner concluded, and the PTAB agreed, that "[a] continuous process of sending images is the equivalent of streaming video".

The Court held that there is no substantial evidence supporting the determination that Knowles discloses streaming video. Knowles discloses a system that sends a series of individual still images as e-mail attachments, which is not the same as streaming video. Such a construction is unreasonable as it comports with neither the plain meaning of the term nor the specification. Streaming video is the continuous transmission of video.