

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NISSAN NORTH AMERICA, INC.,
Petitioner,

v.

JOAO CONTROL & MONITORING SYSTEMS, LLC,
Patent Owner.

Case IPR2015-01508
Patent 6,542,076 B1

Before STACEY G. WHITE, JASON J. CHUNG, BETH Z. SHAW,
Administrative patent Judges.

WHITE, *Administrative patent Judge.*

FINAL WRITTEN DECISION

35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

Nissan North America, Inc. (“Petitioner”) filed a Petition (Paper 1, “Pet.”) requesting *inter partes* review of claims 3, 20, 65, 73, 93, 103, 104, 108, and 205 of U.S. patent No. 6,542,076 B1 (Ex. 1001, “the ‘076 patent”) pursuant to 35 U.S.C. §§ 311–319. Joao Control & Monitoring Systems, LLC, (“Patent Owner”) filed a Preliminary Response. (Paper 9, “Prelim. Resp.”). Based on our review of these submissions, we instituted *inter partes* review of claims 3, 20, 65, 73, 93, 103, 104, 108 and 205 of the ‘076 patent on the proposed grounds of unpatentability under 35 U.S.C. §§ 102, 103. Paper 10 (“Dec.”). Specifically, we authorized this *inter partes* review to proceed as to the following grounds:

Reference(s)	Basis	Claim(s) Instituted
Frossard ¹	§ 102	3, 20, 73, 103, and 205
Frossard and Pagliaroli ²	§ 103	65
Frossard and Drori ³	§ 103	93
Frossard and LeBlanc ⁴	§ 103	104
Frossard and Simms ⁵	§ 103	108
Pagliaroli ⁶	§ 102	3, 20, 65, 73, 93, and 205
Pagliaroli and Frossard	§ 103	103

¹ EP 0505266 A1 (Ex. 1004); English translation (Ex. 1005) (“Frossard”).

² U.S. patent No. 5,276,728 (Ex. 1006) (“Pagliaroli”).

³ U.S. patent No. 5,081,667 (Ex. 1008) (“Drori”).

⁴ U.S. patent No. 6,236,365 B1 (Ex. 1009) (“LeBlanc”).

⁵ U.S. patent No. 5,334,974 (Ex. 1007) (“Simms”).

⁶ The Institution Decision included claim 103 in the list of claims asserted to be anticipated by Pagliaroli. Dec. 26. This was a typographical error. The Petition did not allege that claim 103 was anticipated by Pagliaroli. *See generally* Pet. 10–22

Reference(s)	Basis	Claim(s) Instituted
Pagliaroli and LeBlanc	§ 103	104
Pagliaroli and Simms	§ 103	108

Id. at 25–26.

Patent Owner filed a Patent Owner’s Response (Paper 21, “PO Resp.”), and Petitioner filed a Reply (Paper 25, “Reply”). An oral hearing was conducted on October 20, 2016. A transcript of the oral hearing is included in the record. Paper 30 (“Tr.”).

We have jurisdiction under 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons discussed below, Petitioner has demonstrated by a preponderance of the evidence that claims 3, 20, 65, 73, 93, 103, 104, 108, and 205 of the ‘076 patent are unpatentable.

A. Related Proceedings

The parties inform us that the ‘076 patent is at issue in approximately one dozen lawsuits pending in courts around the country. Paper 20, Pet. 1, Ex. 1019. In addition, *ex parte* reexamination No. 90/013,302 was filed with respect to the ‘076 patent and has been stayed in light of this proceeding. Paper 24. The ‘076 patent also is the subject of a co-pending petition for *inter partes* review (IPR2015-01610).

B. The ‘076 patent

The ‘076 patent describes a control, monitoring, and/or security apparatus and method for vehicles. Ex. 1001, 1:25–32. The apparatus described in the ‘076 patent allows an owner, occupant, or other authorized individual to control or to perform various monitoring and security tasks in regards to a vehicle from a remote location and at any time. *Id.* at 3:5–11.

An embodiment of the apparatus of the '076 patent includes a transmitter system which is “a remote system, which may or may not be physically connected to the remainder of the apparatus. Further, the transmitter system is not located in the [vehicle] . . . , but rather, is located external from, and/or separate and apart from, the vehicle.” *Id.* at 3:50–56. The apparatus also includes a CPU that is connected electrically and/or linked to one or more vehicle equipment systems (e.g., vehicle ignition or anti-theft systems). *Id.* at 4:35–37; 4:61–5:14. The vehicle equipment systems may be activated, de-activated, reset, or controlled by the apparatus. *Id.* at 5:15–18. This activation or control may be achieved by a user entering a code on the transceiver of the transmitter system. *Id.* at 6:30–36. The code is transmitted to the CPU and then the CPU communicates with the appropriate vehicle equipment system. *Id.* at 7:16–21.

C. Illustrative Claim

As noted above, we instituted *inter partes* review of claims 3, 20, 65, 73, 93, 103, 104, 108, and 205 of the '076 patent, of which claims 3, 73, and 205 are independent. Claim 3 is illustrative of the instituted claims and is reproduced below:

3. A control apparatus, comprising:

a first control device, wherein the first control device at least one of generates a first signal and transmits a first signal for at least one of activating, de-activating, disabling, and re-enabling, at least one of a vehicle system, a vehicle equipment system, a vehicle component, a vehicle device, a vehicle equipment, and a vehicle appliance, of a vehicle, wherein the first control device is located at the vehicle,

wherein the first control device at least one of generates the first signal and transmits the first signal in response to a second

signal, wherein the second signal is at least one of generated by a second control device and transmitted from a second control device, wherein the second control device is located at a location which is remote from the vehicle, wherein the second signal is transmitted from the second control device to the first control device, wherein the second signal is automatically received by the first control device, and further wherein the second control device at least one of generates the second signal and transmits the second signal in response to a third signal,

wherein the third signal is at least one of generated by a third control device and transmitted from a third control device, wherein the third control device is located at a location which is remote from the vehicle and remote from the second control device, wherein the third signal is transmitted from the third control device to the second control device, and further wherein the third signal is automatically received by the second control device.

II. CLAIM CONSTRUCTION

As acknowledged by the parties, the '076 patent has expired. *See* Pet. 9; PO Resp. 8. We construe expired patent claims according to the principles set forth in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc). *See In re Rambus*, 694 F.3d 42, 46 (Fed. Cir. 2012). “In determining the meaning of the disputed claim limitation, we look principally to the intrinsic evidence of record, examining the claim language itself, the written description, and the prosecution history, if in evidence.” *DePuy Spine, Inc. v. Medtronic Sofamor Danek, Inc.*, 469 F.3d 1005, 1014 (Fed. Cir. 2006) (citing *Phillips*, 415 F.3d at 1312–17). A patentee may act as a lexicographer by giving a term a particular meaning in the specification with “reasonable clarity, deliberateness, and precision.” *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994).

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