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Paper No. 10
Filed: January 28, 2016

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 HOWARD B. BLANKENSHIP, STACEY G. WHITE, and JASON J. CHUNG, *Administrative Patent Judges*.

WHITE, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
37 C.F.R. § 42.108

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I. INTRODUCTION

A. Background

Nissan North America, Inc. ("Petitioner") filed a Petition (Paper 1, "Pet.") seeking to institute an *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."). We have jurisdiction under 35 U.S.C. § 314(a), which provides that an *inter partes* review may not be instituted "unless . . . there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition."

Petitioner contends the challenged claims are unpatentable under 35 U.S.C. §§ 102 and 103 on the following specific grounds (Pet. 10–60):

Reference(s)	Basis	Claim(s) Challenged
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	§ 102	3, 20, 65, 73, 93, and 205
Pagliaroli and Frossard	§ 103	103
Pagliaroli and LeBlanc	§ 103	104

[1] EP 0505266 A1 (Ex. 1004); English translation of EP 0505266 A1 (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").

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Reference(s)	Basis	Claim(s) Challenged
Pagliaroli and Simms	§ 103	108

Our factual findings and conclusions at this stage of the proceeding are based on the evidentiary record developed thus far (prior to Patent Owner's Response). This is not a final decision as to patentability of claims for which *inter partes* review is instituted. Our final decision will be based on the record as fully developed during trial. For reasons discussed below, we institute *inter partes* review of the '076 patent as to claims 3, 20, 65, 73, 93, 103, 104, 108, and 205.

B. Related Proceedings

Petitioner informs us that the '076 patent is at issue in thirty-two lawsuits pending in courts around the country. Pet. 1; Ex. 1019. In addition, *ex parte* reexamination No. 90/013,302 was filed with respect to the '076 patent and is pending. Pet. 1; Ex. 1019. The '076 patent also is the subject of a co-pending petition for *inter partes* review (IPR2015-01610).

C. The '076 Patent

The '076 patent describes a control, monitoring, and/or security apparatus and method for vehicles or premises. 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

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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.

D. Illustrative Claim

As noted above, Petitioner challenges 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 challenged 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

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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; Prelim. Resp. 9. 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).

Petitioner seeks construction of "intelligent agent" and "software agent." Pet. 9–10. Petitioner argues that these terms both should be construed to mean "a computing entity that performs user delegated tasks autonomously." *Id.* at 9. Patent Owner does not speak to this proposed

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