

DECLARATION OF SCOTT ANDREWS

I, Scott Andrews, declare as follows:

1. I hold a B.Sc. degree in Electrical Engineering from University of California–Irvine and a M.Sc. degree in Electronic Engineering from Stanford University. In various positions at, among others, TRW and Toyota, I have been responsible for research and development projects relating to, among others, numerous remote vehicle control devices and vehicle information systems. My qualifications are further set forth in my *curriculum vitae* (Exhibit A). I have been retained by Volkswagen Group of America, Inc. in connection with its petition for *inter partes* review of U.S. Patent No. 6,549,130 (“the ’130 patent”). I have over 25 years of experience in fields relevant to the ’130 patent, including remote vehicle control systems.

2. I have reviewed the ’130 patent, as well as its prosecution history and the prior art cited during its prosecution. I have also reviewed the prosecution history of the *ex parte* reexamination of the ’130 patent, Reexamination Control No. 90/013,301 (“the ’301 reexamination”), and the prior art cited in the reexamination. In addition, I have reviewed U.S. Patent No. 6,072,402 (“Kniffin”), U.S. Patent No. 5,113,427 (“Ryoichi”), U.S. Patent No. 5,081,667 (“Drori”), U.S. Patent No. 5,732,074 (“Spaur,”), U.S. Patent No. 5,726,984 (“Kubler,”), U.S. Patent No. 5,808,566 (“Behr”), and U.S. Patent No. 4,602,127 (“Neely”).

The '130 Patent

3. The '130 patent relates to a remote-controlled control, monitoring, and/or security apparatus, linked to various vehicle systems like alarms, horns, power door locks, video recording devices, phones, or vehicle recovery systems. Col. 4, ll. 43-63. A remote transmitter system 2, such as a touch tone telephone, transmits signals to a receiver 3, such as a beeper or pager system. Col. 18, l. 64-col. 19, l. 2; col. 19, ll. 57-61; col. 19, l. 66-col. 20, l. 1. A CPU 4 receives signals from the receiver 3 and controls vehicle systems by activating or deactivating the vehicle systems. Col. 20, ll. 61-67; col. 21, l. 46-col. 22, l. 37; 24, l. 66-col. 25, l. 3.

4. The claims of the '130 patent describe the above-described sequence of control among three devices. One control device is located at a vehicle, another control device is located remote from the vehicle, and another control device is located remote from the other remote control device and remote from the vehicle. One of the remote control devices sends a control signal to the other remote control device, which responds by sending a control signal to the control device in the vehicle. In response, the control device in the vehicle activates or deactivates a vehicle component.

5. The claims of the '130 patent recite the above-described sequence of control signals among three control devices. The claims vary, however, in the naming of the control devices. In claim 26, and its dependent claims, the “first control device”

is located in the vehicle, and is responsive to signals from the “second control device,” which in turn is responsive to signals from the “third control device.” In claim 42 and its dependent claims, however, the “third control device” is located at the vehicle, responsive to signals from the “second control device,” which is responsive to signals from the “first control device.” Claim 48, and its dependent claims, describe a “first control device” located at the vehicle, responsive to signals from the “second control device,” which in turn is responsive to signals from the “first control device.” In claim 91, and its dependent claims, the “third control device” is located at the vehicle, and is responsive to signals from the “first control device,” which in turn is responsive to signals from the “second control device.” In claim 138, and its dependent claims, the “third control device” is located at the vehicle, responsive to signals from the “second control device,” which in turn is responsive to signals from the “first control device.” Thus, my understanding of the claims and the disclosure of the prior art documents is independent of these naming conventions.

6. According to my understanding of the prosecution of the ’130 patent, the initially filed claims recited the chain of three control devices. For example, application claim 21 was initially filed as follows:

21. A control apparatus, comprising:

a first control device, wherein said first control device one of generates and transmits a first signal for one of activating, de-

activating, enabling, and disabling, one of a premises and the premises one of system, subsystem, component, device, equipment, and appliance, wherein said first control device is located at the premises; wherein said first control device is responsive to a second signal, wherein the second signal is one of generated by and transmitted from a second control device, wherein the second control device is located at a location which is remote from the premises, and further wherein the second control device is responsive to a third signal, wherein the third signal is one of generated by and transmitted from a third control device, wherein the third control device is located at a location which is remote from the premises and remote from the second control device.

7. The Examiner rejected this claim as anticipated by U.S. Patent No. 6,028,537 to Suman, but Joao convinced the Examiner that Suman does not qualify as prior art. The Examiner then issued another Office Action, in which the claims were rejected for obviousness-type double patenting in view of its parent patent, U.S. Patent No. 5,917,405 (“the ’405 patent”). Joao thereafter submitted a Terminal Disclaimer over the ’405 patent.

8. A Notice of Allowance issued on June 4, 2001, in which the Examiner provided the following reasons for allowance, identifying the chain of three control devices:

[T]here are no references teaching of a control apparatus for controlling of at least one activating, deactivating, enabling and disabling of at least one of a premises having at least one of system, subsystem, component, equipment and appliance. Wherein the first control device is responsive to a second signal and the second signal is at least generated by a a [sic] second control device which is located remote from the premises. And further wherein the second control device is responsive to a third control signal which is generated by a third control device which is located at a location remote from the premises and remote from the second control device.

9. I further understand that the '130 patent is currently subject to reexamination, and that during the reexamination, the Examiner determined that substantial new questions of patentability affecting claim 48 are raised by Kniffin and Ryoichi and by: U.S. Patent No. 5,070,320 to Ramono; U.S. Patent No. 5,276,728 to Pagliaroli; the combination either Ramono, Kniffin, Ryoichi, or Pagliaroli with Drori; and the combination of either Ramono, Kniffin, Ryoichi, or Pagliaroli with U.S. Patent No. 5,103,221 to Memmola. I further understand that claim 48 currently stands rejected as anticipated by each of Ramono, Ryoichi, and Pagliaroli.

Kniffin – Claims 26, 38, 42, 43, 48, 63, 73, 74, 91, and 138

10. Kniffin discloses all of the limitations of claims 26, 38, 42, 43, 48, 63, 73, 74, 91, 138, and 139, including the claimed sequence of control signals passed among three control devices, which was the basis for allowance of the '130 patent.

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