

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VOLKSWAGEN GROUP OF AMERICA, INC.

Petitioner

v.

JOAO CONTROL & MONITORING SYSTEMS, LLC

Patent Owner

Patent No. 7,397,363

Issue Date: July 8, 2008

Title: CONTROL AND/OR MONITORING
APPARATUS AND METHOD

PETITIONER'S REPLY

Case No. IPR2015-01612

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	CLAIM CONSTRUCTION.....	2
	A. “First Signal” and “Second Signal” Need Not Be Construed	2
III.	CLAIMS 68, 69, 72, 74, 77, AND 80 ARE INVALID.....	4
	A. Claims 68, 69, 74, 77, and 80 are Anticipated by Spaur	4
	1. Spaur describes a chain of three devices for monitoring a vehicle system/component	5
	2. Spaur describes dependent claims 69, 74, 77, and 80	10
	B. Claim 72 is Obvious in View of Spaur.....	12
	1. Using a wireless device, cellular telephone, or personal digital assistant as the communication device could have been obvious.....	12
IV.	CONCLUSION	14

LISTING OF EXHIBITS

Exhibit 1001	U.S. Patent No. 7, 397,363 to Joao
Exhibit 1002	U.S. Patent No. 6,072,402 to Kniffin
Exhibit 1003	U.S. Patent No. 5,070,320 to Ramono
Exhibit 1004	U.S. Patent No. 5,732,074 to Spaur
Exhibit 1005	U.S. Patent No. 5,081,667 to Drori
Exhibit 1006	Declaration of Scott Andrews
Exhibit 1007	Supplement to the Remarks for the Amendment Filed on October 24, 2007
Exhibit 1008	Response to Office Action, June 1, 2015
Exhibit 1009	August 18, 2015 Memorandum Opinion and Order Regarding Claim Construction in <i>Joao Control & Monitoring Systems, LLC v. Protect America, Inc.</i> , Case No. 1:14-cv-134 (W.D. Tex.)
Exhibit 1010	March 23, 2016 Memorandum Opinion and Order in <i>Joao Control & Monitoring Systems, LLC v. Telular Corp.</i> , Case No. 1:14-cv-09852 (N.D. Ill.)
Exhibit 1011	June 10, 2016 Opinion and Order (1) Granting In Part and Denying In Part Defendant FCA US LLC'S Motion for Summary Judgment on Invalidity and Noninfringement (Dkt. 59) and (2) Denying as Moot Plaintiff Joao Control & Monitoring Systems, LLC'S Motion for Summary Judgment of Infringement of U.S. Patent No. 7,397,363 by UConnect Access (Dkt. 57) in <i>Joao Control & Monitoring Systems, LLC v. Chrysler Group LLC</i> , Case No. 4:13-cv-13957

I. INTRODUCTION

This Petitioner's Reply is responsive to the Patent Owner's Response to Petition for *Inter Partes* Review Under 37 C.F.R. § 42.107 (the "Response").

As set forth in the Petition, the claims of U.S. Patent No. 7,397,363 (the "'363 patent") are invalid in view of the prior art cited therein, including U.S. Patent No. 5,732,074 (Ex. 1004, "Spaur"). Despite the Patent Owner's ("Joao") assertions that the '363 patent describes a "novel and unconventional system," and claims "a specially assembled and programmed distributed control and monitoring system for vehicles" (Response, at 2), the '363 patent merely claims a conventional chain of signals among three devices. As set forth in the Petition, the claimed systems are disclosed by the cited prior art and were well known before the earliest effective filing date of the '363 patent, such that the challenged claims are invalid and should be canceled.

In its Response, Joao argues that Spaur fails to describe a second processing device that receives a first signal from a first processing device, and that generates and transmits a second signal to a communication device. As described in the Petition, and below, Spaur describes the second processing device claimed by the '363 patent, so that the challenged claims are unpatentable, and should be canceled.

II. CLAIM CONSTRUCTION

A. “First Signal” and “Second Signal” Need Not Be Construed

The terms “first signal” and “second signal” should be given their ordinary and customary meaning, as would be understood by a person of ordinary skill in the art, at the time of the alleged invention, considering the claim language, the specification, and the prosecution history. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312, 1327 (Fed. Cir. 2005). In this case, the specification and prosecution history do not provide any special definition of the terms “first signal” and “second signal.” Nor does Joao assert otherwise.

Instead, Joao asserts that the claim terms “first signal” and “second signal” require construction, that “first signal” is “a signal sent by a first device,” and that “second signal” is “a signal sent by a second device.” Response, at 9. Joao does not explain why these terms are not entitled to their ordinary and customary meaning according to *Phillips*, nor does Joao refer to any intrinsic evidence to support its proposed constructions. Joao relies only on a claim construction decision from *Joao Control & Monitoring Systems, LLC v Chrysler Group LLC*, Case No. 13-cv-13957 (E.D. Mich.). Response at 9.

Joao’s reliance on this district court decision is misplaced. First, Joao incorrectly states that the Michigan court “construed the terms ‘first signal,’ ‘second signal,’ and ‘third signal.’” The Michigan court expressly did not construe

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