

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 IPR2015-01645
Patent 7,397,363

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

SHAW, *Administrative Patent Judge.*

DECISION
Final Written Decision
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

Petitioner, Nissan North America, Inc., filed a Petition requesting *inter partes* review of claims 21, 22, 24, 25, 29, and 36 of U.S. Patent No. 7,397,363 (“the ’363 patent”). Paper 1 (“Pet.”). Patent Owner, Joao Control & Monitoring Systems, LLC, filed a Preliminary Response pursuant to

IPR2015-01645
Patent 7,397,363

35 U.S.C. § 313. Paper 8 (“Prelim. Resp.”). Based on our review of these submissions, we instituted *inter partes* review of claims 21, 22, 24, 25, 29, and 36 (“the instituted claims”). Paper 11 (“Dec.”).

Patent Owner filed a Patent Owner’s Response (Paper 20, “PO Resp.”), and Petitioner filed a Reply (Paper 23, “Pet. Reply”). An oral hearing was held for this case on October 20, 2016. A transcript of the oral hearing is included in the record. Paper 28.

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 21, 22, 24, 25, 29, and 36 of the ’363 patent are unpatentable.

A. *Related Matters*

Petitioner and Patent Owner indicate that the ’363 patent or related patents have been asserted in a significant number of related cases. *See* Pet. 1–2; Paper 5. The ’363 patent also is the subject of another *inter partes* review (IPR2015-01612).

B. The Asserted Grounds

Petitioner identifies the following as asserted grounds of unpatentability:

Reference(s)	Basis	Instituted Claim(s)
Frossard (Ex. 1005) ¹ and Spaur (Ex. 1016) ²	§ 103(a)	21, 24, 25, and 36
Frossard, Spaur, and Pagliaroli (Ex. 1006) ³	§ 103(a)	22
Frossard, Spaur, and Simms (Ex. 1007) ⁴	§ 103(a)	29
Johnson (Ex. 1008) ⁵ and Rossmann (Ex. 1009) ⁶	§ 103(a)	21, 22, 24, 25, 29, and 36

C. The '363 Patent

The '363 patent is directed to controlling a vehicle or premises. Ex. 1001, Abst. The '363 patent describes a first control device, which generates a first signal and is associated with a web site and located remote from a premises or vehicle. *Id.* The first control device generates the first signal in response to a second signal that is transmitted via the Internet from a second control device located remote from the first device and remote from the premises or vehicle. *Id.* The first device determines whether an

¹ European Patent Application Publication No. 0 505 266 A1, published March 17, 1992.

² U.S. Patent No. 5,732,074, filed Jan. 16, 1996.

³ U.S. Patent No. 5,276,728, filed Nov. 6, 1991.

⁴ U.S. Patent No. 5,334,974, filed Feb. 6, 1992.

⁵ U.S. Patent No. 5,557,254, filed Nov. 16, 1993.

⁶ U.S. Patent No. 5,809,415, filed Dec. 11, 1995.

action associated with the second signal is allowed, and if so, transmits the first signal to a third device located at the premises. *Id.* The third device generates a third signal for activating, de-activating, disabling, re-enabling, or controlling an operation of a system, device, or component of the premises or vehicle. *See id.*

D. Illustrative Claim

We instituted *inter partes* review of claims 21, 22, 24, 25, 29, and 36, of which claim 21 is the only independent claim. Claim 21 is illustrative and is reproduced below:

21. An apparatus, comprising:

a first processing device, wherein the first processing device at least one of generates a first signal and transmits a first signal for at least one of activating, de-activating, disabling, re-enabling, and controlling an operation of, 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 or located at a vehicle, wherein the first processing device is associated with a web site, and further wherein the first processing device is located at a location remote from the vehicle,

wherein the first processing 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 processing device and transmitted from a second processing device, wherein the second processing device is located at a location which is remote from the first processing device and remote from the vehicle, wherein the first processing device determines whether an action or an operation associated with information contained in the second signal, to at least one of activate, de-activate, disable re-enable, and control an operation of, the at least one of a vehicle system, a vehicle equipment system, a vehicle component, a vehicle device, a vehicle equipment, and a vehicle appliance, is an authorized or

an allowed action or an authorized or an allowed operation, and further wherein the first processing device at least one of generates the first signal and transmits the first signal to a third processing device if the action or the operation is determined to be an authorized or an allowed action or an authorized or an allowed operation, wherein the third processing device is located at the vehicle,

wherein the second signal is transmitted to the first processing device via, on, or over, at least one of the Internet and the World Wide Web, and further wherein the second signal is automatically received by the first processing device, wherein the first signal is transmitted to and automatically received by the third processing device, wherein the third processing device at least one of generates a third signal and transmits a third signal for at least one of activating, de-activating, disabling, re-enabling, and controlling an operation of, the at least one of a vehicle system, a vehicle equipment system, a vehicle component, a vehicle device, a vehicle equipment, and a vehicle appliance, in response to the first signal.

II. ANALYSIS

A. *Claim Construction*

In the Decision to Institute, we noted that the '363 patent was due to expire no later than May 6, 2016. Dec. 6. The parties have not disputed the calculation of the '363 patent's expiration date. Based on our review of the record, we discern no reason to modify that calculation and thus, we find the '363 patent to be expired. For claims of an expired patent, the Board's claim interpretation is similar to that of a district court. *See In re Rambus, Inc.*, 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*

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