

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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NISSAN NORTH AMERICA, INC.,  
Petitioner

v.

JOAO CONTROL & MONITORING SYSTEMS, LLC,  
Patent Owner

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Case IPR2015-01645  
Patent 7,397,363

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Before HOWARD B. BLANKENSHIP, STACEY G. WHITE, and  
BETH Z. SHAW, *Administrative Patent Judges*.

SHAW, *Administrative Patent Judge*.

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

I. INTRODUCTION

Petitioner, Nissan North America, Inc., filed a Petition to institute an *inter partes* review of claims 21, 22, 24, 25, 29, and 36 (“the challenged claims”) of U.S. Patent No. 7,397,363 (“the ’363 patent”). Paper 1 (“Pet.”).

IPR2015-01645  
Patent 7,397,363

Patent Owner, Joao Control & Monitoring Systems, LLC, filed a Preliminary Response pursuant to 35 U.S.C. § 313. Paper 8 (“Prelim. Resp.”).

We have authority to determine whether to institute an *inter partes* review. 35 U.S.C. § 314; 37 C.F.R. § 42.4(a). Upon consideration of the record, and for the reasons explained below, we determine that the information presented shows a reasonable likelihood that Petitioner would prevail with respect to claims 21, 22, 24, 25, 29, and 36. *See* 35 U.S.C. § 314(a). Accordingly, we institute an *inter partes* review of these claims.

A. *Related Matters*

Petitioner indicates that there are a significant number of related cases. *See* Pet. 1–2. At the time the Petition was filed, U.S. Patent No. 7,397,363 B2 was subject to *ex parte* reexamination and a Notice of Intent to Issue Ex Parte Reexamination Certificate was mailed July 29, 2015. Ex. 2002. A reexamination certificate issued September 2, 2015 for U.S. Patent No. 7,397,363 C1.

*B. The Asserted Grounds*

Petitioner identifies the following as asserted grounds of unpatentability:

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

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

<sup>2</sup> U.S. Patent No. 5,732,074, filed Jan. 16, 1996.

<sup>3</sup> U.S. Patent No. 5,276,728, filed Nov. 6, 1991.

<sup>4</sup> U.S. Patent No. 5,334,974, filed Feb. 6, 1992.

<sup>5</sup> U.S. Patent No. 5,557,254, filed Nov. 16, 1993.

<sup>6</sup> U.S. Patent No. 5,809,415, filed Dec. 11, 1995.

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. The Challenged Claims*

Petitioner challenges 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, deactivating, 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*

Before proceeding with claim construction, we must determine the proper standard to apply. Petitioner and Patent Owner contend that the claims of the '363 patent should be given their broadest reasonable construction. Pet. 8; Prelim. Resp. 10–12. That standard, however, is applicable only to unexpired patents. *See* 37 C.F.R. § 42.100(b) (“A claim in an unexpired patent shall be given its broadest reasonable construction in light of the specification of the patent in which it appears.”). In this case, if a trial proceeds, the patent will expire during the trial. For expired patents,

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