

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EMERSON ELECTRIC CO.,
Petitioner,

v.

SIPCO, LLC,
Patent Owner.

Case IPR2015-01973
Patent 8,013,732 B2

Before LYNNE E. PETTIGREW, STACEY G. WHITE, and
CHRISTA P. ZADO, *Administrative Patent Judges*.

WHITE, *Administrative Patent Judge*.

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

I. INTRODUCTION

A. Background

Emerson Electric Co. (“Petitioner”) filed a Petition (Paper 2, “Pet.”) seeking to institute an *inter partes* review of claims 13, 14, 16–21, and 23–35 of U.S. Patent No. 8,013,732 B2 (Ex. 1001, “the ’732 patent”) pursuant to 35 U.S.C. §§ 311–319. SIPCO, LLC (“Patent Owner”) filed a Preliminary Response. (Paper 6, “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. §103 on the following specific grounds (Pet. 10–60):

Reference(s)	Basis	Claim(s) Challenged
Kahn ¹ and APA ²	§ 103	13, 14, 19–21, 25, 26, 30, 31, and 33
Kahn, APA, and Burchfiel ³	§ 103	16–18, 24, 28, 29, and 35
Kahn, APA, and Fisher ⁴	§ 103	23

¹ Robert E. Kahn, *Advances in Packet Radio Network Protocols*, Proceedings of the IEEE, Vol. 66, No. 11, Nov. 1978 (Ex. 1002) (“Kahn”).

² Petitioner relies upon the disclosures found in column 1, lines 54 through 65, column 2, lines 27 through 29, column 5 lines 32 through 44, and Figure 1 of the ’732 patent as Admitted Prior Art (“APA”). See Pet. 13–14

³ J. Burchfiel, et al., *Functions and Structure of a Packet Radio Station*, National Computer Conference presented paper, 1975 (Ex. 1003) (“Burchfiel”).

⁴ Fisher General Catalog 501, 5th ed., 1989, © Fisher Controls (Ex. 1008) (“Fisher”).

Reference(s)	Basis	Claim(s) Challenged
Kahn, APA, and Cerf ⁵	§ 103	32
Kahn, APA, Burchfiel, HART Data Link, ⁶ and Hart Command ⁷	§ 103	27 and 34

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 claims 13, 14, 16–21, and 23–35 of the '732 patent.

B. Related Proceedings

Petitioner informs us that *SIPCO, LLC, v. Emerson Electric Co.*, No. 6:15-cv-00907-JRG-KNM (E.D. Tex.) may be impacted by this proceeding. Paper 7 (Petitioner's Amended Mandatory Notices). In addition, there are several pending patent applications that claim priority to the '732 patent. Pet. 2, Paper 7.

C. The '732 Patent

The '732 patent is titled "Systems and Methods for Monitoring and Controlling Remote Devices." Ex. 1001, at [54]. It describes "a system for

⁵ Vinton G. Cerf & Peter T. Kirstein, *Issues in Packet-Network Interconnection*, Proceedings of the IEEE, Vol. 66, No. 11, Nov. 1978 (Ex. 1011) ("Cerf").

⁶ HART® Smart Communications Protocol Physical and Data Link Specification printed Mar. 28, 1988 (Ex. 1009) ("HART Data Link").

⁷ HART® Smart Communications Protocol Universal Command Specification, Rev. 4.1, Rosemount, Inc., printed Nov. 3, 1990 (Ex. 1010) ("HART Command").

monitoring a variety of environmental and/or other conditions within a defined remotely located region.” *Id.* at Abstract. “The system is implemented by using a plurality of wireless transmitters, wherein each wireless transmitter is integrated into a sensor adapted to monitor a particular data input.” *Id.* Figure 2 of the ’732 patent is reproduced below.

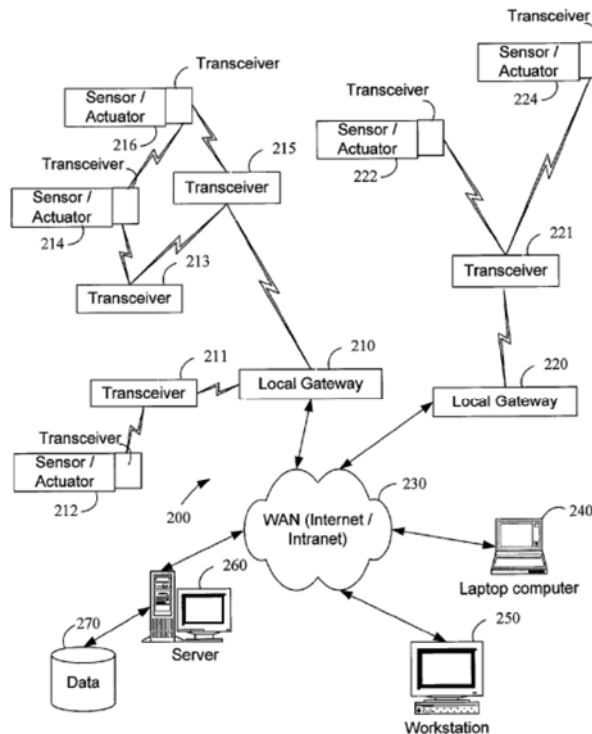


FIG. 2

Figure 2 is a block diagram of the monitoring and control system of a preferred embodiment of the invention. *Id.* at 4:42, 7:33–56. Control system 200 includes one or more sensor/actuators 212, 214, 216, 222, and 224. *Id.* at 5:65–67. Each of these sensor/actuators is integrated with a transceiver. *Id.* Transceivers 212, 214, 216, 222, and 224 may be located within an environment to be monitored such as an automobile, rainfall gauge, or parking lot access gate. *Id.* at 7:34–37. These devices may be used to monitor vehicle diagnostics, total rainfall and sprinkler supplied water, and access gate position. *Id.* The control system also includes a

plurality of stand-alone transceivers 211, 213, 215, and 221. *Id.* at 6:15–17. Local gateways 210 and 220 receive transmissions from the transceivers and analyze and convert these transmissions as necessary in order to retransmit the information via a wide area network. *Id.* at 6:37–40.

D. Illustrative Claim

As noted above, Petitioner challenges claims 13, 14, 16–21, and 23–35 of the '732 patent, of which claims 13, 20, 26, and 31 are independent. Claim 13 and is illustrative of the challenged claims and is reproduced below:

13. In a system comprising a plurality of wireless devices configured for remote wireless communication and comprising a device for monitoring and controlling remote devices, the device comprising:
 - a transceiver having a unique identification code and being electrically interfaced with a sensor, the transceiver being configured to receive select information and identification information transmitted from another wireless transceiver in a predetermined signal type;
 - the transceiver being further configured to wirelessly retransmit in the predetermined signal type the select information, the identification information associated with the nearby wireless transceiver, and transceiver identification information associated with the transceiver making retransmission; and
 - a data controller operatively coupled to the transceiver and the sensor, the data controller configured to control the transceiver and receive data from the sensor, the data controller configured to format a data packet for transmission via the transceiver, the data packet comprising data representative of data sensed with the sensor.

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