> vehicle bus adapter 120C translates the messages received from the vehicle bus into the language of the fault detector. It also translates messages from the fault detector into the language of the vehicle bus. The fault code specifications and protocols of the vehicle may be Original Equipment Manufacturer (OEM) and model dependent. The term "vehicle fault codes" is meant to be synonymous with the term "trouble code" or "diagnostic trouble code". A listing of such codes may be found in the publication of the Society of Automotive Engineers, "SAE On-Board Diagnostics for Light and Medium Duty Vehicles Standards Manual". The diagnostic data service 120A accepts request for vehicle parametric data and retrieves the data using the vehicle bus adapter.

As noted by the Patent Owner in the previous response and repeated above, the ECUs will indeed use their own respective trouble codes, and these codes are different for different vehicles. The SAE On-Board Diagnostics for Light and Medium Duty Vehicles Standards Manual, i.e. the SAE HS-3000, referred to in Chou et al. and of record in the reexamination, provides that: "[c]urrently there is no uniformity in these numeric Diagnostic Trouble Codes (DTC) between manufacturers, and in some cases, even within the same manufacturer across different product lines." (SAE HS-3000, 1997, page 39). The lack of vehicle code compatibility among different vehicles for vehicle tracking units is the problem addressed by the claimed invention of the '278 patent.

c. Comments on Chou et al. col. 10, lines 1-11

This cited portion of Chou et al. is reproduced below:

> [i]t may be desirable to bundle the remote health monitoring and diagnostics with other services or to extend it with related application functions. For example, the remote diagnostics service could certainly be offered on top of an Emergency/Mayday service (e.g., "OnStar"). Other applications and services that can be developed or bundled as extensions of the diagnostics services include: breakdown service, network diary, vehicle user manual update, OEM Callback Services, fleet management, theft prevention, vehicle parameter update/change, remote vehicle access, concierge services, etc.

The quoted language is highly generalized regarding possible additional services. It is unclear what if anything this language has to do with the claimed invention. It is unspecified and unclear which possible services are to be possibly implemented using one or more of the remote service center 200, the dealer 250, the roadside assistance vehicle 175, the in-vehicle system 100, and/or some other third party facility or equipment.

Chou et al. discloses that the diagnostic server at the remote service center lists "out-of-range parameters" and performs "trend analysis on the parameter values". (Col. 9, lines 12-21). Accordingly, the cited portion with respect to vehicle parameter update/change could readily be performed at the remote service center alone.

The Patent Owner respectfully asserts that if a claim element is not expressly disclosed by the prior art, the prior art reference must inherently disclose the claim element to anticipate it. (*See In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999)). The court went on to state that:

> [t]o establish inherency, the extrinsic evidence "must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill." *Continental Can Co. v. Monsanto Co.*, 948 F.2d 1264, 1268, 20 U.S.P.Q.2D (BNA) 1746, 1749 (Fed. Cir. 1991). "Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient." Id. at 1269, 20 U.S.P.Q.2D (BNA) at 1749 (*quoting In re Oelrich*, 666 F.2d 578, 581, 212 U.S.P.Q. 323, 326 (C.C.P.A. 1981). *Id.* at 745. (Emphasis added).

The Manual of Patent Examining Procedure (MPEP) also states: "[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic." (MPEP §2112, *citing In re Rijckaert*, 9 F.3d 1531, 1534 (Fed. Cir. 1993); *In re Oelrich*, 666 F.2d 578, 581-82, (CCPA 1981); and *Metabolite Labs., Inc. v. Lab.Corp. of Am. Holdings*, 370 F.3d 1354, 1367 (Fed. Cir. 2004)).

The Patent Owner respectfully submits that this cited portion of Chou et al. adds nothing to the asserted deficiencies

elsewhere in Chou et al. Moreover, there is no proper way to attempt to read this cited section as inherently disclosing any of the recited claim elements.

5. Chou et al. Teaches Away from the Claimed Invention

The Patent Owner again submits that the teachings of Chou et al. include that the in-vehicle computer system (the left hand side of Figure 5) simply interfaces to the various specific ECUs on the bus. Further, Chou et al. teaches that the diagnostic server of the remote service center (on the right hand side of Figure 5) provides the ability to read data from the data bus or write data to the data bus, even though different manufacturers and different models use different codes for their ECUs. In other words, Chou et al. teaches away from the claimed vehicle tracking unit including the multi-vehicle controller and downloading interface.

For example, Chou et al. provides that:

> [t]he remote service center 200 of FIG. 3 comprises a diagnostic server 201 that has access to data related to the vehicle such as as-built, history, diagnostics, warranty, service information and failure mode data. The diagnosis server 201 is linked to the data repository 203 via a TCP/IP link, LAN, or the like.
>
> (Col. 5, lines 34-39; emphasis added).

And Chou et al. also provides:

> [w]ithin the diagnostic server 201 at the service center 200 is a diagnosis engine 201A. The main

> function of the diagnosis engine 201A is to provide a health checkup or a diagnosis using the data obtained from the vehicle, the vehicle's past history, and the diagnostics information about the particular model of the vehicle.
>
> (Col. 5, line 53-58; emphasis added).

In operation, "[t]he diagnosis engine 201A first determines if a fault or a potential of a fault is present by checking if any trouble code is reported by the client, and checking a predetermined list of vehicle attribute values against their normal operating characteristics." (Col. 5, lines 61-64).

During the diagnosis session, "the diagnostic client 421 passes the fault codes, vehicle identification and other relevant information to the [diagnostic] server 201". (Col. 8, lines 19-21). The fault detector and diagnostic client are both at the vehicle, and, the diagnostic server is at the remote service center. The diagnostic server can also request data from the diagnostic client at the vehicle.

The vehicle driver may also initiate a vehicle health checkup. Chou et al. further describes this health checkup as follows:

> [t]hen, vehicle information, estimated to be on the order of 1 kilobyte in size, including, for example, vehicle identification number (VIN), any trouble codes, and/or a snapshot of the vehicle data, are retrieved by the vehicle client 101 through the vehicle bus interface 120. The vehicle client 101 combines vehicle ID information with the information from the vehicle bus

> interface 120 and sends the data to the Diagnostic Server 201 over a data link. The data link is kept open. The diagnostics server 201 retrieves vehicle information from the data repository 203 and compares the data from the vehicle with the repository data. Then, the diagnostic server 201 prepares a report listing any out-of-range parameters and actions required (e.g., "coolant level is low").
>
> (Col. 9, lines 3-16; emphasis added).

The Patent Owner submits that Chou et al. teaches that the ability to work with different vehicle device codes is provided at the remote service center using the diagnostic server 201 in combination with the data repository 203 (Figure 1) also at the remote service center – and not at the vehicle. Chou et al. provides no disclosure, express or inherent, and no reason, for this capability to be provided at the in-vehicle system.

Thus, Chou et al. teaches away from the vehicle tracking unit of the claimed invention that includes: the multi-vehicle compatible controller to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles, and the downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by the multi-vehicle compatible controller.

Accordingly, the Patent Owner submits that independent Claims 1 and 18 are patentable over Chou et al. Spaur et al. is cited for the teaching of a wired connection in the rejection of

independent Claim 13, and, the Patent Owner submits that Spaur et al. adds nothing to the deficiencies of Chou et al. Accordingly, independent Claim 13 is also patentable. In view of the patentability of the independent Claims 1, 13 and 18, it is submitted that their dependent claims are also patentable, and require no further discussion herein.

C. Evidence of Secondary Considerations and Declaration Evidence

1. Secondary Considerations of Non-Obviousness

To rebut the Examiner's obviousness rejections based upon the Chou et al. patent, the Patent Owner can offer the following secondary considerations supporting non-obviousness. As noted by the Federal Circuit in *Mintz v. Dietz*, 679 F.3d 1372 (Fed. Cir. 2012), the following helpful guidance is provided with respect to the objective criteria of secondary considerations:

> [t]hese objective criteria thus help turn back the clock and place the claims in the context that led to their invention. Technical advance, like much of human endeavor, often occurs through incremental steps toward greater goals. These marginal advances in retrospect may seem deceptively simple, particularly when retracing the path already blazed by the inventor. For these reasons, this court requires consideration of these objective indicia because they "provide objective evidence of how the patented device is viewed in the marketplace, by those directly interested in the product." (*Id.* at 1378; emphasis added).

Mintz further provides:

> [i]ndeed, where the invention is less technologically complex, the need for Graham findings can be important to ward against falling into the forbidden use of hindsight. Simply because the technology can be easily understood does not mean that it will satisfy the legal standard of obviousness. In fact, objective consideration of simple technology is often the most difficult because, once the problem and solution appear together in the patent disclosure, the advance seems self-evident. Instead, the proper analysis requires a form of amnesia that "forgets" the invention and analyzes the prior art and understanding of the problem at the date of invention.
> (*Id.* at 1379; emphasis added).

The Patent Owner sets forth below evidence of licensing, commercial success, copying by others, customer need, and limited value of products without the claimed invention.

a. Licensing

The '278 patent in Claim 1, for example, is directed to a multi-vehicle compatible tracking unit for a vehicle comprising a vehicle data bus extending throughout the vehicle. The multi-vehicle compatible tracking unit comprises a vehicle position determining device, a wireless communications device, and a multi-vehicle compatible controller for cooperating with the vehicle position determining device and the wireless

communications device to send vehicle position information. The multi-vehicle compatible controller is to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles. The multi-vehicle compatible tracking unit comprises a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by the multi-vehicle compatible controller.

The Patent Owner points to the following excerpt from the Jury Verdict form (Evidence Appendix Item 1) from the related litigation establishing the merits of the claimed invention and the licenses:

5. **Which of the following factors that tend to indicate nonobviousness, if any, has been established by the evidence with respect to the claimed invention (write the word "yes" in the blank below to any question that you answer "yes" to):**

yes **Did others accept licenses under patents because of the merits of the claimed invention?**

In other words, after observing all of the testimony of the witnesses, reviewing the exhibits presented during trial, and applying the Court's Jury Instructions, the Jury determined that the licenses were based on the merits of the claimed invention, including the '278 patent.

As noted in Mr. McAlexander's Declaration (Evidence Appendix Items 5-6), the Patent Owner has received in excess of $50 million in licensing revenue, from the '278 patent and the other asserted patents in the related litigation.

Mr. McAlexander also notes that the '278 patent is one of three patents asserted in the related litigation providing features for multi-vehicle compatibility; and, multi-vehicle compatibility is important for the overall licensing program of the Patent Owner.

Mr. McAlexander cites to Requester's own employees' trial testimony for the propositions that the multi-vehicle compatibility provides for simplified installation and avoids the need to have multiple SKUs (stock keeping units). Further details regarding the "customer need" and "limited value" without the multi-vehicle compatibility are provided below.

b. Commercial Success

The Patent Owner respectfully points to the following excerpt from the Jury Verdict form from the related litigation that provides evidence of commercial success due to the merits of the claimed invention:

5. **Which of the following factors that tend to indicate nonobviousness, if any, has been established by the evidence with respect to the claimed invention (write the word "yes" in the blank below to any question that you answer "yes" to):**

YES **Were accused products covered by the claim commercially successful due to the merits of the claimed invention rather than due to advertising, promotion, salesmanship, or features of the product other than those found in the claim?**

Furthermore, the Jury also determined that the features of the '278 patent were included in the infringing Requester devices. The Jury determined that asserted claims of the '278 patent were infringed, and the Court determined the infringement was willful. The Jury Verdict evidences that products sold by Requester correspond to the claimed invention.

This is the pertinent portion of the Jury Verdict form:

	LMU-3000	LMU-3030	LMU-3050	VPOD	VPOD2
Claim 1	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 2	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 3	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 4	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 5	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 6	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 8	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 11	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No

	LMU-3000	LMU-3030	LMU-3050	VPOD	VPOD2
Claim 12	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No		
Claim 13	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 14	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 16	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 18	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 19	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 21	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No

As noted in Mr. McAlexander's Declaration, Requester

has sold over 466,000 units of the accused products, earning over $4.1 million in gross profits (citing to the Tregillis financial expert report).

Mr. McAlexander also notes that the '278 patent is one of three patents asserted in the related litigation providing features for multi-vehicle compatibility; and, multi-vehicle compatibility is important for the overall licensing program of the Patent Owner. Mr. McAlexander cites to Requester's own employees' trial testimony for the propositions that the multi-vehicle compatibility provides for simplified installation and avoids the need to have multiple SKUs (stock keeping units).

c. Copying by Others

Once again, the Patent Owner points to the following excerpt from the Jury Verdict form from the related litigation that establishes copying:

5. **Which of the following factors that tend to indicate nonobviousness, if any, has been established by the evidence with respect to the claimed invention (write the word "yes" in the blank below to any question that you answer "yes" to):**

YES **Did others copy the claimed invention?**

The Jury's finding of infringement of all of the asserted claims of the '278 patent (provided above) establishes

that Requester's products correspond to the claimed invention. The Court's Final Order and Final Judgment (Evidence Appendix Items 3 and 7) confirm the Jury's Verdict.

d. Customer Need

The Patent Owner directs the Patent Trial and Appeal Board's (PTAB) attention first to the Court's determination in the related litigation. In its Final Order, the Court provides:

> Rather than take a license, and choosing not to design around Omega's patents, CalAmp elected to sell infringing products and continues to do so to this day. CalAmp's motivation to engage in this behavior is obvious: their customers wanted this technology and CalAmp [Requester] wanted to provide it. (Final Order, page 19; Emphasis added.)

The McAlexander Declaration provides that the multi-vehicle accused products in the Requester litigation were developed because of "customer need" for a simple installation that did not require splicing of wires. Mr. McAlexander's position is supported by the following testimony of Mr. Stephen Hall and Mr. Peter Hergesheimer, both Requester employees, as follows:

Testimony of Requester Employee Stephen Hall

Q. Can you introduce yourself for the record

A. Yes. My name is Stephen Hall. The correct

spelling is S-t-e-p-h-e-n.

Q. All right, sir. And by whom are you employed?

A. I'm an employee of CalAmp Corporation.

Q. Do you have a title at CalAmp?

A. My official title is director of system engineering and technology.

Q. What does it mean to be the director of system engineering and technology at CalAmp?

A. My role is to look at the needs of our customer and market and to match them up with various technologies that are going on in the industry component level and otherwise to make sure that we have an appropriate solution. (Stephen Hall deposition, 6:8-22).

Q. All right, sir. I'm going to hand you what was previously marked as Exhibit 1 to the deposition of Mr. Hergesheimer. Can you tell me what Exhibit 1 is?

A. I'm looking at a CalAmp datasheet for the LMU-3000 product.

Q. And were you involved in the development of the LMU-3000?

A. I was.

Q. And what was your role in developing the LMU-3000?

A. My role on the 3000 was at the CRS level. I provided the requirements document for that. The various blocks within it were predefined by our existing partnerships, and so I didn't do a lot of component selection type of work, so it was really limited just to the CRS document.

Q. Was there a particular market need that you identified leading up to the creation of the CRS for the LMU-3000?

A. The 3000 was driven by a general market need that we heard from a number of customers. The primary interest was coming from a need for a *simple installation type of solution* and the opportunity to enhance the capability of the product that we could offer with certain data items coming off of the vehicle bus. (Stephen Hall deposition, 6:8-22; and 40:20-41:12; Emphasis added).

Testimony of Requester Employee Peter Hergesheimer

Q. You have been designated as a representative on whether CalAmp has willfully or deliberately infringed in this case. Beyond knowing about the devices and how they operate, do you know anything about CalAmp's assertions that its actions are not

willful or deliberate?

A. I would say from my experience in the development of these devices that there's no willful infringement.

Q. And -- and what's that based on?

A. That's based on knowing where the -- the technology that we use came from and the fact that these were sales-driven requests and somebody had a problem to solve and we went about solving the problem.

Q. What do you mean sales-driven request?

A. Well, typically our -- typically we have a customer that says hey, I would like to do this particular -- have a product that has this feature and so CalAmp goes about designing that product.

Q. So the LMU3000 development was the result of - or was -- was undertaken because customers expressed a demand to CalAmp for these products?

A. I -- I believe that's the case. I can't say specifically for these, but that's in general how our product development works. (Peter Hergesheimer deposition, 40:6 - 41:3).

e. Limited Value for Products Without the Invention

The PTAB's attention is directed to the section above regarding Commercial Success. The Patent Owner asserts that the accused products as covered by the '278 patent would have "limited value" if it were not for multi-vehicle compatibility. Requester's own employee, Peter Hergesheimer, testified as follows:

Testimony of Requester Employee Peter Hergesheimer

Q. Can you state your name for the record.

A. Peter Hergesheimer.

Q. All right. Sir, and by whom are you employed?

A. CalAmp.

Q. Okay. And what's your position at CalAmp?

A. I'm the senior director of software and architecture in the MRM group. (Peter Hergesheimer deposition, 6:2-8).

Q. Do you know whether the LMU3000 would have any value if it didn't work on multiple vehicles?

A. It would have a limited value.

Q. You would need separate skus for each vehicle; right?

A. That would be one way of solving that problem.

Q. Is there any other way?

A. Different skus could be different software got loaded onto the same sku.

Q. Okay. So you can -- whether you have a different sku or not, you would need to -- if -- if the LMU3000 was vehicle specific, it would need software for each vehicle in which it was -- separate software for each vehicle in which it was designed to work?

A. Each vehicle type I would guess, yes.

Q. And that would be a more expensive exercise, I would think, from CalAmp's perspective?

A. Yes.

Q. And less desirable than the -- than the option you have now where the LMU is able to service multiple vehicles?

A. Yes, even though it is still pretty painful.

(Peter Hergesheimer deposition, 46:25 - 47:19; Emphasis added).

In view of the evidence of secondary considerations the Patent Owner submits that any obviousness type rejection of the pending claims is rebutted.

2. Nexus for Secondary Considerations of Non-Obviousness

On pages 9-10 of the Final Office Action, the Examiner contended that the "evidence of secondary considerations must be related to the claimed invention, i.e. a nexus between the invention as claimed and evidence of the secondary consideration." The Patent Owner submitted the relevant court documents finding evidence of secondary considerations which necessarily includes a finding of nexus, submitted trial testimony that constituted the evidence at trial resulting in finding of evidence of secondary considerations for the asserted patents including the '278 patent, and submitted the Declaration of Mr. McAlexander further explaining his analysis and conclusions from the evidence he considered, as set forth in paragraphs 19a-19j of his Declaration.

The Patent Owner respectfully submits that evidence of secondary considerations, including nexus, has been presented and requests favorable reconsideration.

Further, the Patent Owner highlights this passage from page 10 of the Court Order (Evidence Appendix Item 3), which highlights the nexus between the claims of the '278 patent and the copying by Requester, CalAmp:

> [f]urther indicia of willful infringement by CalAmp is found in an e-mail sent by Mr. Chen to outside patent counsel, Mr. David Bailey 12, and senior vice president for corporate development, Mr. Garo Sarkissian. (Doc. 182, 112:13-19). On July 30, 2013, eight months after Omega instituted this lawsuit, Mr. Chen wrote to Messrs, Bailey, and

> asked them to look at the '278 patent. (Pl.'s Ex. 48). Referring to claim 13 of the '278 patent, Mr. Chen wrote: "13 may relate to how we program a unit at the factory so it may be harder to avoid." (Id.). The '278 patent has as an object of the invention to "provide a multi-vehicle compatible tracking unit which may be used to control operable vehicle devices, and/or read information therefrom via the vehicle data communications bus." (Joint Ex. 5, column 2, lines 46-49). Clearly, Mr. Chen was concerned as late as July 30, 2013, that the accused devices infringe claim 13 of the '278 patent, as the jury ultimately found. His admission in this e-mail that the units are programed at the CalAmp factory is further evidence that his trial testimony describing the LMU as a black box, programmed by the end-user, was false.
>
> (Emphasis added).

The Examiner also noted that "the evidence of non-obviousness (i.e. testimony/trial transcript, exhibits, instructions) are not of record, e.g. jury instructions, financial expert Reports, or only partially of record, e.g. excerpts of testimony of trial transcript, as best understood." To address the Examiner's concern the following materials were submitted, yet the Examiner refused to enter and consider these materials in the response filed September 18, 2017: Exhibit 5, trial transcript; Exhibit 6, list of defendant's trial exhibits; Exhibit 7, list of plaintiff's trial exhibits; Exhibit 8, list of Court's trial exhibits; and Exhibit 9, jury instructions. Even without these further materials as requested by the Examiner, but not entered into the record or considered, the Patent Owner has

still submitted evidence of secondary considerations and established the required nexus. In view of the evidence of secondary considerations, the Patent Owner submits that any obviousness type rejection of the claims is overcome.

3. Mr. McAlexander Declaration Evidence

The Examiner contended that the positions and opinions of Declarant, Mr. McAlexander, were merely conclusory. The Patent Owner points out that the McAlexander Declaration sets forth the analysis performed by highly experienced patent agent and technical expert whose analysis and trial testimony was persuasive at the related litigation, and whose earlier declaration was part of the basis for the USPTO confirming the claims of the '278 patent in the first reexamination. Mr. McAlexander states his understanding of the claims, cites to the specific relevant teachings of Chou et al. as would be understood by one of skill in the art, and renders his opinions. His opinions are not merely conclusory.

Mr. McAlexander's analysis also walks through the extensive evidence of secondary considerations in a detailed and thorough manner. Accordingly, the PTAB is respectfully requested to reconsider the McAlexander Declaration.

II. The Reexamination Was Improperly Granted

The Patent Owner respectfully submits that the present Requester's repeated request for ex parte reexamination should

have been rejected as being wasteful of USPTO resources and being fundamentally unfair to the Patent Owner.

In the past, the USPTO has exercised discretion to deny third party requests for ex parte Reexamination. (*See In re Portola Packaging Inc.*, 110 F.3d 786, 791 (Fed. Cir. 1997) *superseded by* 35 U.S.C. §303(a) ("a rejection made during reexamination does not raise a substantial new question of patentability if it is supported only by prior art previously considered by the PTO in relation to the same or broader claims.")). In the legislative history of this statutory amendment to 35 U.S.C. §303(a), it was noted that the USPTO would stand as the gatekeeper for the ex parte reexamination procedure to prevent unfair harassment of the Patent Owner. The legislative history states:

> [t]he bill preserves the necessary safeguard in the Patent Act against harassment of patentees with the safety-valve of a "substantial new question of patentability" standard, not merely "any sort of question." The agency has discretion in this determination to permit reexamination, but it is not absolute.
> ...
> However, this bill is not a license to abuse patentees and waste the life of a patent. (107 H. Rpt. 120).

Notwithstanding this legislative adjustment from Congress, this discretionary denial of serial post grant review requests has evolved in the relatively new IPR, provided by the

Leahy-Smith America Invents Act (AIA). In a recent line of decisions, the PTAB has delineated a rule governing follow-on requests for IPR. (*See Nvidia Corp. v. Samsung Electronics. Co.*, 2016 Pat. App. Filings LEXIS 3606; and *General Plastic Indust. Co. v. Canon Kabushiki Kaisha*, IPR2016-01357-61 (PTAB), *available at* http://bit.ly/2zAOS3w).

In *Nvidia*, the PTAB provided a list of factors to consider when exercising the statutory discretion to order the IPR. The list of factors included:

> (1) the finite resources of the Board;
>
> (2) the requirement under 35 U.S.C. §316(a)(11) to issue a final determination not later than 1 year after the date on which the Director notices institution of review;
>
> (3) whether the same petitioner already previously filed a petition directed to the same claims of the same patent;
>
> (4) whether at the time of filing of the first petition the petitioner knew of the prior art asserted in the second petition or should have known about it;
>
> (5) whether at the time of filing of the second petition the petitioner already received patent owner's preliminary response to the first petition or received the Board's decision on whether to institute review in the first petition;
>
> (6) the length of time that elapsed between the time petitioner learned of the prior art

> asserted in the second petition and filing of the second petition; and
>
> (7) whether petitioner provides adequate explanation for the time elapsed between the filings of multiple petitions directed to the same claims of the same patent.
> (*Id.* at 8-9).

The PTAB remarked about the: "potential inequity based on a petitioner's filing of serial attacks against the same claims of the same patent, while having the opportunity to adjust litigation positions along the way based on either patent owner's contentions responding to prior challenges or the Board's decision on prior challenges, is real and cannot be ignored." (*Id.* at 10; emphasis added). The PTAB stated that repeated requests for IPR would not be barred under a bright line rule, but each request would need to be reviewed under a case-by-case basis. (*Id.*).

In *General Plastics*, the PTAB again applied the *Nvidia* factors in denying follow-on requests for IPR. In making their determination, the PTAB noted that the petitioner had modified their requests based upon the Patent Owner's response in the first request for IPR and the PTAB's own comments. The PTAB went on to state: "[t]he filing of sequential attacks against the same claims, with the opportunity to morph positions along the way, imposes inequities on [Patent Owner]." (Slip. Op at 11).

In the current appeal, the present reexamination resulted from a request filed as a follow-on request to a first

reexamination, then pending, that eventually resulted in a Reexamination Certificate. The present reexamination request was filed only after reviewing the Patent Owner's response in the first reexamination. Indeed, the present reexamination request was essentially an end-around third party reply to the Patent Owner's response in the first reexamination. To this end, the present reexamination request included a section titled: "PROCEEDINGS IN PENDING RE-EXAMINATION OF FLICK '278 PATENT WITH CONTROL NO. 90/013,587". (Pages 26-31 of the Request). In fact, the present reexamination request challenged the proper decision to drop rejections in the first reexamination. (See Page 7 of the Request ("the Beckert '363 patent was considered during the Flick '587 Reexam, but was ***inexplicably*** withdrawn from the Flick '587 Reexam with no reasons being made on the record as to why this rejection was being withdrawn. ***Accordingly, Requester is again resubmitting this reference***"; emphasis added)).

The Patent Owner submits that the Requester's efforts are an improper and roundabout attempt to fashion the present ex parte reexamination into an IPR. The Patent Owner notes that the IPR option was available to the Requester, but the Requester rather chose to move forward with litigation in the Federal Court system, which ultimately resulted in a total rejection of the Requester's invalidity arguments and a finding of willful infringement. Nevertheless, not apt to be without options, the Requester filed the first request for ex parte reexamination just prior to the original scheduled start of trial.

The Patent Owner notes that the present reexamination resulted from a request that was largely duplicative of the failed first reexamination. In particular, the Beckert, Spaur et al. and Suman et al. prior art references, each used to argue substantial new questions of patentability in the present reexamination's request, were all applied in rejections in the first reexamination.

Moreover, the only new prior art reference, Chou et al., was known to the Requester long before the filing of follow-on present reexamination's request. The Patent Owner notes that Chou et al. was considered in the original prosecution of the '278 patent, as correctly noted by the Examiner on page 41 of the Reexamination Order Determination dated December 15, 2016. Indeed, the Chou et al. prior art reference was cited in multiple parents of the '278 patent. (*See* U.S. Patent Nos. 7,720,597, 7,149,623, and 6,606,561). Yet further, the Chou et al. prior art reference was mentioned 2 times in the appendix of the Requester's own litigation expert (a document dated April 15, 2015, a full 4 months before the filing of the first request for reexamination). Hence, the Patent Owner notes that the Requester not only should have known about the Chou et al. prior art reference at the time of filing of request for the first reexamination, but actually did know about the Chou et al. prior art reference at the time of the filing of the request for the first reexamination, but did not include the Chou et al. reference in view of the deficiencies as noted herein.

The Patent Owner submits that such sequential/serial requests for ex parte reexamination, which spend hundreds of pages arguing that the prior Examiner's panel in the first reexamination was wrong, is a waste of USPTO resources. The proper venue for such USPTO based litigation is the IPR, but the Requester strategically skipped that option, choosing rather to drag the Patent Owner through costly Federal Court litigation.

The Patent Owner submits that the Requester is abusing USPTO procedures in a fashion that is fundamentally unfair to the Patent Owner. Indeed, it is not only in this present reexamination where the Requester has continued to file sequential/serial requests after failing to invalidate the patent at trial, and after a first reexamination try. For U.S. Patent No. 6,756,885, which was successfully asserted against the Requester in the related litigation, the first reexamination resulted in a Reexamination Certificate issued August 1, 2017. Not three months later, the Requester filed yet another follow-on request for reexamination for U.S. Patent No. 6,756,885 (Reexamination 90/014,038 - filed October 26, 2017). Quite succinctly, the Requester has laid bare a strategy to serially attack the Patent Owner via the ex parte reexamination process.

Although the decision to order an ex parte reexamination is not expressly appealable, (*see* 35 U.S.C. §306), the Patent Owner contends that the PTAB should adopt an *Nvidia* style standard for reviewing serial requests for ex parte reexaminations. The Patent Owner notes that many of the same

inequities from *Nvidia* are in play in the present reexamination. In particular, the present reexamination represents a waste of USPTO, Federal Court, and PTAB resources, and utilizes prior art references the Requester had knowledge of at time of the filing of the first request for reexamination. The Requester utilized the Patent Owner's response in the first reexamination to fashion a pseudo inter partes response in an end-around on the limits of post grant review procedures. Because of these inequities, the Patent Owner respectfully submits that the PTAB should apply an *Nvidia* standard to this particular ex parte reexamination and overturn the current rejection.

CONCLUSIONS

In view of the foregoing arguments, it is submitted that all of the claims are patentable over the prior art. Accordingly, the PTAB is respectfully requested to reverse the earlier unfavorable decision by the Examiner.

Respectfully submitted,



JACK GEORGE ABID
Reg. No. 58,237
Allen, Dyer, Doppelt,
& Gilchrist, P.A.
255 S. Orange Avenue, Suite 1401
Post Office Box 3791
Orlando, Florida 32802
Telephone: 407/841-2330
Fax: 407/841-2343
Attorney for Patent Owner

APPENDIX A - CLAIMS ON APPEAL

1. A multi-vehicle compatible tracking unit for a vehicle comprising a vehicle data bus extending throughout the vehicle, the multi-vehicle compatible tracking unit comprising:

a vehicle position determining device;

a wireless communications device;

a multi-vehicle compatible controller for cooperating with said vehicle position determining device and said wireless communications device to send vehicle position information;

said multi-vehicle compatible controller to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles; and

a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller.

2. The multi-vehicle compatible tracking unit according to claim 1 wherein said downloading interface comprises a wired signal downloading interface.

3. The multi-vehicle compatible tracking unit according to claim 2 wherein said wired signal downloading interface comprises a connector for temporary connection to a downloading device.

4. The multi-vehicle compatible tracking unit according to claim 1 wherein said downloading interface comprises a wireless signal downloading interface.

5. The multi-vehicle compatible tracking unit according to claim 4 wherein said wireless signal downloading interface comprises a wireless receiver for temporary connection to a downloading device.

6. The multi-vehicle compatible tracking unit according to claim 1 wherein the corresponding at least one vehicle code is for reading from the at least one vehicle device.

7. The multi-vehicle compatible tracking unit according to claim 1 wherein the corresponding at least one vehicle code is for writing to the at least one vehicle device.

8. The multi-vehicle compatible tracking unit according to claim 1 wherein said downloading interface is also for permitting downloading of at least one programming instruction for said multi-vehicle compatible controller.

9. The multi-vehicle compatible tracking unit according to claim 1 further comprising a remote transmitter; and wherein said multi-vehicle compatible controller also performs at

least one vehicle remote control function responsive to said remote transmitter.

10. The multi-vehicle compatible tracking unit according to claim 9 wherein the at least one vehicle remote control function comprises at least one of a vehicle security function, a remote keyless entry function, and a remote engine starting function.

11. The multi-vehicle compatible tracking unit according to claim 1 wherein said wireless position determining device comprises a Global Positioning System (GPS) receiver.

12. The multi-vehicle compatible tracking unit according to claim 1 further comprising a housing containing said vehicle position determining device, said wireless communications device, said multi-vehicle compatible controller, and said downloading interface.

13. A multi-vehicle compatible tracking unit for a vehicle comprising a vehicle data bus extending throughout the vehicle, the multi-vehicle compatible vehicle tracking unit comprising:

a vehicle position determining device;

a wireless communications device;

a multi-vehicle compatible controller for cooperating with said vehicle position determining device and said wireless communications device to send vehicle position information;

said multi-vehicle compatible controller to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles; and

a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller;

said downloading interface comprising a connector for temporary connection to a downloading device.

14. The multi-vehicle compatible tracking unit according to claim 13 wherein the corresponding at least one vehicle code is for reading from the at least one vehicle device.

15. The multi-vehicle compatible tracking unit according to claim 13 wherein the corresponding at least one vehicle code is for writing to the at least one vehicle device.

16. The multi-vehicle compatible tracking unit according to claim 13 wherein said downloading interface is also for permitting downloading of at least one programming instruction for said multi-vehicle compatible controller.

17. The multi-vehicle compatible tracking unit according to claim 13 further comprising a remote transmitter; and wherein said multi-vehicle compatible controller also performs at least one vehicle remote control function responsive to said remote transmitter.

18. A multi-vehicle compatible tracking unit for a vehicle comprising a vehicle data bus extending throughout the vehicle, the multi-vehicle compatible vehicle tracking unit comprising:

a vehicle position determining device;

a wireless communications device;

a multi-vehicle compatible controller for cooperating with said vehicle position determining device and said wireless communications device to send vehicle position information;

said multi-vehicle compatible controller to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles; and

a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller;

said downloading interface comprising a wireless receiver for temporary connection to a downloading device.

19. The multi-vehicle compatible tracking unit according to claim 18 wherein the corresponding at least one vehicle code is for reading from the at least one vehicle device.

20. The multi-vehicle compatible tracking unit according to claim 18 wherein the corresponding at least one vehicle code is for writing to the at least one vehicle device.

21. The multi-vehicle compatible tracking unit according to claim 18 wherein said downloading interface is also for permitting downloading of at least one programming instruction for said multi-vehicle compatible controller.

22. The multi-vehicle compatible tracking unit according to claim 18 further comprising a remote transmitter; and wherein said multi-vehicle compatible controller also performs at least one vehicle remote control function responsive to said remote transmitter.

APPENDIX B - EVIDENCE APPENDIX

In accordance with MPEP §1205.02

While it is no longer a requirement to include an evidence appendix, the Office strongly encourages and appreciates receiving copies of the evidence relied upon (e.g., copies of declarations and affidavits, evidence of secondary considerations, etc.). This ensures that the Board is considering the proper evidence and avoids any confusion as to the particular evidence referenced in the appeal brief. In the alternative, the Board recommends that appellants clearly identify in the appeal brief the evidence relied upon using a clear description of the evidence along with the date of entry of such evidence into the Image File Wrapper.

In Re Patent Application of:
Kenneth E. FLICK
Reexamination Control No. **90/013,851**
Filed: **OCTOBER 29, 2016**
_____/

COURTESY COPIES OF PREVIOUSLY-ADMITTED DECLARATIONS AND EXHIBITS

1. Jury Verdict Judgment from related litigation with Requester (admitted with response filed June 12, 2017)

2. Ruling on JMOL and new trial from related litigation with Requester (admitted with response filed November 29, 2017) [Examiner did not address admission status in latest Advisory Action dated December 5, 2017]

3. Final Order from related litigation with Requester (admitted with response filed June 12, 2017)

4. Executed Rule 132 Declaration of Michael Suman July 5, 2016 (admitted with response filed September 18, 2017)

5. Executed Rule 132 Declaration of Joseph McAlexander July 6, 2016 (admitted with response filed September 18, 2017)

6. Executed Rule 132 Declaration of Joseph McAlexander June 12, 2017 (admitted with response filed June 12, 2017)

7. Final Judgment from related litigation with Requester (admitted with response filed June 12, 2017)

8. Markman Order from related litigation with Requester (admitted with response filed June 12, 2017)

9. Notice of Intent to Issue Ex Parte Reexamination Certificate from Serial No. 90/013,587 of the first reexamination (admitted with response filed September 18, 2017)

Electronic Acknowledgement Receipt

EFS ID:	31522042
Application Number:	90013851
International Application Number:	
Confirmation Number:	8717
Title of Invention:	Vehicle Tracking Unit with Downloadable Codes and Associated Methods
First Named Inventor/Applicant Name:	8032278
Correspondence Address:	CHRISTOPHER F. REGAN, ESQUIRE ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A. P. O. BOX 3791 - ORLANDO FL 32802-3791 US 407-841-2330 -
Filer:	Jack G. Abid/sheryllee scheibe
Filer Authorized By:	Jack G. Abid
Attorney Docket Number:	C13-03896.RE2
Receipt Date:	17-JAN-2018
Filing Date:	28-OCT-2016
Time Stamp:	12:13:55
Application Type:	Reexam (Patent Owner)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Appeal Brief-Owner	ssrexappeal.pdf	1997893 4269319ad9ca79928efdc4ee3ece1cd7ba2db112	no	70
Warnings:					
The page size in the PDF is too large. The pages should be 8.5 x 11 or A4. If this PDF is submitted, the pages will be resized upon entry into the Image File Wrapper and may affect subsequent processing					
Information:					
2		ssrexexib.pdf	4420387 091e490f10b041a57b90e3e213e3b1a10412b932	yes	139

Multipart Description/PDF files in .zip description

Document Description	Start	End
Affidavit/Dec/Exhibit after Notice of Appeal	1	11
Affidavit/Dec/Exhibit after Notice of Appeal	12	30
Affidavit/Dec/Exhibit after Notice of Appeal	31	54
Affidavit/Dec/Exhibit after Notice of Appeal	55	62
Affidavit/Dec/Exhibit after Notice of Appeal	63	89
Affidavit/Dec/Exhibit after Notice of Appeal	90	100
Affidavit/Dec/Exhibit after Notice of Appeal	101	104
Affidavit/Dec/Exhibit after Notice of Appeal	105	133
Affidavit/Dec/Exhibit after Notice of Appeal	134	139

Warnings:	
The page size in the PDF is too large. The pages should be 8.5 x 11 or A4. If this PDF is submitted, the pages will be resized upon entry into the Image File Wrapper and may affect subsequent processing	
Information:	
Total Files Size (in bytes):	6418280

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/013,851	10/28/2016	8032278	C13-03896.RE2	8717

7590 01/30/2018

CHRISTOPHER F. REGAN, ESQUIRE
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
P. O. BOX 3791
ORLANDO, FL 32802-3791

EXAMINER	
ART UNIT	PAPER NUMBER

DATE MAILED: 01/30/2018

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DO NOT USE IN PALM PRINTER

(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

KPPB LLP

2400 East Katella Avenue Suite 1050

Anaheim CA 92806

EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. *90/013851*.

PATENT NO. *8032278*.

ART UNIT *3992*.

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(e)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(e)).

Notification of Non-Compliant Appeal Brief (37 CFR 41.37) in Ex Parte Reexamination	Control No.	Patent Under Reexamination	
	90/013,851	8032278	
	Examiner	Art Unit	
	Karin M. Reichle	3992	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on *January 17, 2018* is defective for failure to comply with one or more provisions of 37 CFR 41.37(c).

Patent owner is given a TIME PERIOD of ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing date of this Notification for filing an amended brief or other appropriate correction of the Appeal brief (see MPEP 1205.03). If an amended brief or other appropriate correction (see MPEP 1205.03) is not timely submitted, the appeal will be dismissed as of the expiration of the period for reply to this Notification. Extensions of this time period may be obtained only under 37 CFR 1.550(c).

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.

2. ☐ The brief does not comply with 37 CFR 41.37(c)(1)(iii) in it that it fails to (1) contain a concise explanation of the subject matter defined in each of the rejected independent claims, referring to the specification in the Record by page and line number or paragraph number and to the drawings, if any, by reference characters; and/or (2) identify, for each rejected independent claim and for each dependent claim argued separately that contains a means plus function or step plus function recitation under 35 U.S.C. 112, sixth paragraph, the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification in the Record by page and line number or paragraph number, and to the drawings, if any, by reference characters.

3. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(v)).

4. ☒ Other (including any explanation in support of the above items):
The "Evidence Appendix" is incorrect because of the following:

1.

2. The "evidence appendix" section of the appeal brief contains unentered evidence

According to 37 C.F.R. 41.37(c)(2)[emphasis included]: "(2) A brief SHALL NOT include any new or non-admitted amendment, or any new or NON-ADMITTED AFFIDAVIT OR OTHER EVIDENCE. See §1.116 of this title for treatment of amendments,affidavits or other evidence filed after final action but before or on the same date of filing an appeal and § 41.33 for treatment of amendments, affidavits or other Evidence filed after the date of filing the appeal."

The Declaration of Mr. Michael Sunan was mentioned on pp. 15-16, etc. in the "Appeal Brief", yet according to the record, it contained exhibits which were not entered in the latest communication from the Examiner.

(A copy of the "Advisory Action" dated Dec. 5, 2017 is enclosed for your records, with the highlighted non-entered papers according to the Examiner.)

If there is any proof of entry of the papers cited in the "Appeal Brief", please resubmit a corrected brief along with any documentation and date of entry/consideration by the Examiner.

Ms. M. Twitty, Paralegal (571) 272-7750

Mr. A. Kellogg, Supervisory Paralegal, (571) 272-9797

* If this is a merged proceeding, one copy must be added to each reexamination in addition to the first reexamination.

CC: Third Party Req. KPPB LLP 2400 East Katella Avenue Suite 1050 Anaheim CA 92806		

cc: Requester (if third party requester)

THIRD PARTY REQUESTER:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

In re Patent of **KENNETH E. FLICK**	
Request for Reexamination of **U.S. PATENT NO. 8,032,278**	
Control No. **90/013,851**	Attorney Docket No.: **C13-03895(58106CIP1_REX2)**
Confirmation No. **8717**	
Filing Date: **OCTOBER 28, 2016**	Examiner: **K. REICHLE**
For: **VEHICLE TRACKING UNIT WITH DOWNLOADABLE CODES AND ASSOCIATED METHODS**	Art Unit: **3992**

PATENT OWNER'S SUPPLEMENTAL APPEAL BRIEF

EFILED
Commissioner for Patents

Dear Commissioner:

Submitted herewith is Patent Owner's Supplemental Appeal Brief. If any fee is required, authorization is given to charge Deposit Account No. 01-0484.

Patent Owner's Supplemental Appeal Brief is in furtherance to the Appeal Brief filed January 17, 2018 (first Appeal Brief), and in response to the Notification of Non-Compliant Appeal Brief mailed January 30, 2018 (Notice). The Notice indicated that the first Appeal Brief included a defective Evidence Appendix, contending that the Declaration of Michael Suman mentioned at pages 15-16 was not admitted.

As an initial point, the Patent Owner notes that the Evidence Appendix of the first Appeal Brief includes only

admitted materials, and is therefore not defective. Also, for clarity, the Patent Owner notes that there are two Declarations by Michael Suman. The first Declaration, as noted in the Evidence Appendix, was properly admitted with the response filed September 18, 2017. The second Declaration was refused, albeit improperly, admission by the Examiner, and was not included in the Evidence Appendix. The section of the first Appeal Brief noted in the Notice relates to arguments on the improper refusal to admit several exhibits, including the second Declaration of Michael Suman. Since these evidentiary items were not admitted, none of them are included in the Evidence Appendix, nor attached to the first Appeal Brief. The Patent Owner submits that the Notice is improper and submits that this Supplemental Appeal Brief overcomes the Notice.

To the extent the Paralegal and Supervisory Paralegal are contending that the mere mention of non-admitted evidence qualifies for a defective Evidence, the Patent Owner submits that that such a reading of the USPTO rules would run afoul of Rule 41.37(c)(2), which states: "[a] brief shall not include any new or non-admitted amendment, or any new or non-admitted affidavit or other Evidence." The rule does not preclude any utterance, or citation to non-admitted evidence, but rather the inclusion within the Evidence Appendix.

In Re Patent Application of:
Kenneth E. FLICK
Reexamination Control No. **90/013,851**
Filed: **OCTOBER 29, 2016**
_____/

Table of Contents

(1) Real Party in Interest 7

(2) Related Appeals, Interferences, and Trials 7

I. First Trial 7

II. Second Trial 9

(3) Related Reexaminations 9

(4) Summary of the Claimed Subject Matter 12

(5) Evidence Improperly Refused Admission Into the Record 16

(6) Argument 19

I. The §102/§103 Rejections Over Chou et al. Should Be Overturned 20

A. The Teachings of Chou et al. 20

B. The Deficiencies of Chou et al. 21

1. Chou et al. is Merely Cumulative of Suman et al. 21

2. Chou et al. Fails to Disclose the Multi-Vehicle Compatible Controller 24

3. Chou et al. Fails to Disclose the Downloading Interface ... 26

4. Comments on Specific Cited Portions of Chou et al. 29

a. Comments on Chou et al. col. 9, lines 35-45 29

b. Comments on Chou et al. col. 4, lines 15-38 31

c. Comments on Chou et al. col. 10, lines 1-11 33

5. Chou et al. Teaches Away from the Claimed Invention 35

C. Evidence of Secondary Considerations and Declaration Evidence 38

1. Secondary Considerations of Non-Obviousness 38

a. Licensing 39

b. Commercial Success 41

c. Copying by Others 45

d. Customer Need 46

Testimony of Requester Employee Stephen Hall 46

Testimony of Requester Employee Peter Hergesheimer 48

e. Limited Value for Products Without the Invention 50

Testimony of Requester Employee Peter Hergesheimer 50

2. Nexus for Secondary Considerations of Non-Obviousness 52

3. Mr. McAlexander Declaration Evidence 54

II. The Reexamination Was Improperly Granted 54

APPENDIX A - CLAIMS ON APPEAL 64

APPENDIX B - EVIDENCE APPENDIX 70

Table of Authorities

107 H. Rpt. 120 54
35 U.S.C. §303(a) 54
37 C.F.R. §1.116(e) 15
Continental Can Co. v. Monsanto Co., 948 F.2d 1264, 1268, 20 U.S.P.Q.2D (BNA) 1746, 1749 (Fed. Cir. 1991) 33
General Plastic Indust. Co. v. Canon Kabushiki Kaisha, IPR2016-01357-61 (PTAB) 55
In re Oelrich, 666 F.2d 578, 581, 212 U.S.P.Q. 323, 326 (C.C.P.A. 1981) 33
In re Portola Packaging Inc., 110 F.3d 786, 791 (Fed. Cir. 1997) 54
In re Rijckaert, 9 F.3d 1531, 1534 (Fed. Cir. 1993) 33
In re Robertson, 169 F.3d 743, 745 (Fed. Cir. 1999) 33
Metabolite Labs., Inc. v. Lab.Corp. of Am. Holdings, 370 F.3d 1354, 1367 (Fed. Cir. 2004) 33
Mintz v. Dietz, 679 F.3d 1372 (Fed. Cir. 2012) 37
MPEP §1205.02 69
MPEP §2112 33
Nvidia Corp. v. Samsung Electronics. Co., 2016 Pat. App. Filings LEXIS 3606 55

(1) Real Party in Interest

The real party in interest is OMEGA PATENTS, L.L.C., assignee of the present application as recorded at reel 019515, frame 0350.

(2) Related Appeals, Interferences, and Trials

At present there are no related appeals, or interferences. There are two related trials.

I. First Trial

In the first trial, the '278 patent was subject to a litigation between the Requester and the Patent Owner. The Patent Owner filed its complaint alleging patent infringement against the Requester on December 20, 2013. After extensive discovery, including discovery from the trial experts, the trial commenced on February 16, 2016 and concluded on February 24, 2016. The jury found that all of asserted claims from all four of the asserted patents were infringed, and, as particularly relevant in this reexamination, that all of the asserted claims were not invalid -- rejecting Requester's invalidity contentions (*See* Jury Verdict, Evidence Appendix Item 1).

In an order dated November 14, 2017, the Court denied Requester's Renewed Motion for Judgment as a Matter of Law and Motion for New Trial, and denied Requester's Supplemental Renewed Motion for Judgment as a Matter of Law, for a New Trial, and to Vacate the Judgment. (*See* Order, Evidence Appendix Item 2).

Of particular interest in the present reexamination, the Court provided the following judicial findings regarding Secondary Considerations:

> "[t]he jury found three secondary considerations of nonobviousness – commercial success, copying, and licensing by others. Dkt. 144 at 9" (Doc. 216, p. 15). While this precise argument was not presented at either JMOL hearing, it is sufficiently tied to the issue of obviousness to warrant further examination. CalAmp [Requester] contends Omega failed to sufficiently demonstrate a nexus between the claimed invention and the secondary considerations. (Id.).
>
> Plaintiff, in its response to this assertion, summarizes ample evidence presented at trial which rebuts CalAmp's claim that the secondary considerations are unsupported. (Doc. 226, pp. 10-11). Plaintiff observes that Defendant's [Requester] corporate representative and employees testified that the infringing products (and DEI's product) were "commercially successful due to the merits of Omega's invention." (Id. at p. 10). Witnesses testified that features on the infringing CalAmp products were requested by customers. (Id.). Additionally, Mr. Flick sold devices with the patented features, generating sales revenue of $33 million annually. (Id.). Moreover, the jury heard testimony that Mr. Flick, via his company, issued dozens of licenses to the patents-in-suit and entered into settlement agreements with infringers. (Id.). Finally, Omega presented evidence that CalAmp knew of Omega's patents and discussed the difficulty of designing around the patents. (Id. At p. 11). **This testimony was sufficient for an objectively reasonable jury to find the secondary considerations.**

(Pages 12-13, Emphasis added).

II. Second Trial

In the second trial, the Patent Owner filed a new patent infringement lawsuit on July 21, 2017 against Enfora, Inc. in the Northern District of Georgia, Atlanta Division (Case 1:17-cv-02769-TWT). The asserted patents in this Enfora suit include the '278 patent, which is the subject of this second reexamination by Requester.

(3) Related Reexaminations

The Requester filed a first reexamination (90/013,587) of the '278 patent on September 14, 2015, just prior to the scheduled start of trial, which was postponed. In that first reexamination, Requester initially presented invalidity positions based on: (1) U.S. Patent No. 6,028,537 (Suman et al.) alone; (2) U.S. Patent No. 5,732,074 (Spaur et al.) alone; and (3) Spaur et al. in combination with various secondary references. Requester added additional invalidity positions based on: (1) U.S. Patent No. 6,009,363 (Beckert et al.) alone; (2) U.S. Patent No. 7,484,008 (Gelvin et al.) alone; and Published Application 2001/0033225 (Razavi et al.) alone.

All of these invalidity positions of Requester were carefully considered and overcome as the Patent Office issued a Notice of Intent to Issue a Reexam Certificate on December 1, 2016, and issued a Reexamination Certificate on December 28,

2016.

The second reexamination request was filed after the Patent Owner's response in the first reexamination, and before the decision of the Patent Office to confirm patentability of the claims. The second request included attacks on the Patent Owner's response. In other words, the second reexamination request was an improper attempt to convert an ex parte reexamination into an inter partes review (IPR).

This second reexamination request asserted invalidity positions based upon the same recycled Beckert et al., Spaur et al., and Suman et al. patents - sometimes in combination with an SAE document compendium, SAE HS-3000 which includes the SAE J1978 reference asserted at trial. The SAE HS-3000 is titled "SAE On-Board Diagnostics for Light and Medium Duty Vehicles Standards Manual" (1994 Edition). Beckert et al. was asserted alone, and in combination with SAE HS-3000. Suman et al. was asserted alone, and in combination with SAE HS-3000. Spaur et al. was asserted in combination with SAE HS-3000.

Requester did add a new "old art" reference, U.S. Patent No. 6,330,499 (Chou et al.), to the request leading to this second reexamination. Despite the Requester's arguments to the contrary, Chou et al. is not a new reference. Indeed, Chou et al. was considered in the original prosecution of the '278 patent as correctly noted by the Examiner on page 41 of the Reexam Order Determination dated December 15, 2016.

Chou et al. is cited in the '278 parent patent, U.S.

Patent No. 7,720,597 (Flick); grandparent patent, U.S. Patent No. 7,149,623 (Flick); and great-grandparent, U.S. Patent No. 6,606,561 (Flick). The MPEP provides that in continuation applications "[t]he examiner will consider information which has been considered by the Office in a parent application ... A listing of the information need not be resubmitted in the continuing application unless the applicant desires the information to be printed on the patent." (MPEP §609.02II.A.2).

The Requester filed numerous reexamination requests against the three other patents of the Patent Owner found to be willfully infringed by the Court in the related Requester litigation. This is the list of the all prior and current reexaminations by the Requester:

(1) U.S. Patent No. 8,032,278; Reexamination 90/013,587 - filed September 14, 2015. **Ex Parte Reexamination Certificate issued December 28, 2016.**

(2) U.S. Patent No. 8,032,278; Reexamination 90/013,851 - filed October 29, 2016. [PRESENT REEXAMINATION]

(3) U.S. Patent No. 6,756,885; Reexamination 90/013,741 - filed April 28, 2016. **Ex Parte Reexamination Certificate issued August 1, 2017.**

(4) U.S. Patent No. 6,756,885; Reexamination 90/014,038 - filed October 26, 2017. **Order Granting Reexamination issued December 27, 2017.**

(5) U.S. Patent No. 6,346,876; Reexamination 90/013,659 - filed December 11, 2015. **Ex Parte Reexamination Certificate issued September 1, 2017.**

(6) U.S. Patent No. 7,671,727: Reexamination 90/013,832 - filed October 12, 2016. **Ex Parte Reexamination Certificate issued August 1, 2017.**

(4) Summary of the Claimed Subject Matter

Independent Claim 1 is directed to a multi-vehicle compatible tracking unit 110 for a vehicle comprising a vehicle data bus 122 extending throughout the vehicle. The multi-vehicle compatible tracking unit comprises a vehicle position determining device 112, a wireless communications device 113, and a multi-vehicle compatible controller 111 for cooperating with the vehicle position determining device and the wireless communications device to send vehicle position information. The multi-vehicle compatible controller is to be coupled to the vehicle data bus for communication thereover with at least one vehicle device 121 using at least one corresponding vehicle device code from among a plurality thereof for different

vehicles. The multi-vehicle compatible tracking unit comprises a downloading interface 116 for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by the multi-vehicle compatible controller. (Figures 10-13, reproduced below, and Page 27, Col. 23, line 41 through Page 28, Col. 25, line 61).

Independent Claim 13 is directed to a multi-vehicle compatible tracking unit 110 for a vehicle comprising a vehicle data bus 122 extending throughout the vehicle. The multi-vehicle compatible vehicle tracking unit comprises a vehicle position determining device 112, a wireless communications device 113, and a multi-vehicle compatible controller 111 for cooperating with the vehicle position determining device and the wireless communications device to send vehicle position information. The multi-vehicle compatible controller is to be coupled to the vehicle data bus for communication thereover with at least one vehicle device 121 using at least one corresponding vehicle device code from among a plurality thereof for different vehicles. The multi-vehicle compatible vehicle tracking unit comprises a downloading interface 116 for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by the multi-vehicle compatible controller. The downloading interface comprises a connector 133a-133b for temporary connection to a downloading device 115''. (Figures 10 & 13, reproduced below, and Page 27, Col. 23, line 41 through Page 28, Col. 25, line 61).

Independent Claim 18 is directed to a multi-vehicle compatible tracking unit 110 for a vehicle comprising a vehicle data bus 122 extending throughout the vehicle. The multi-vehicle compatible vehicle tracking unit includes a vehicle position determining device 112, a wireless communications device 113, and a multi-vehicle compatible controller 111 for cooperating with the vehicle position determining device and the wireless communications device to send vehicle position information. The multi-vehicle compatible controller is to be coupled to the vehicle data bus for communication thereover with at least one vehicle device 121 using at least one corresponding vehicle device code from among a plurality thereof for different vehicles. The multi-vehicle compatible vehicle tracking unit includes a downloading interface 116 for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by the multi-vehicle compatible controller. The downloading interface comprises a wireless receiver 114 for temporary connection to a downloading device 115. (Figures 10-11, reproduced below, and Page 27, Col. 23, line 41 through Page 28, Col. 25, line 61).

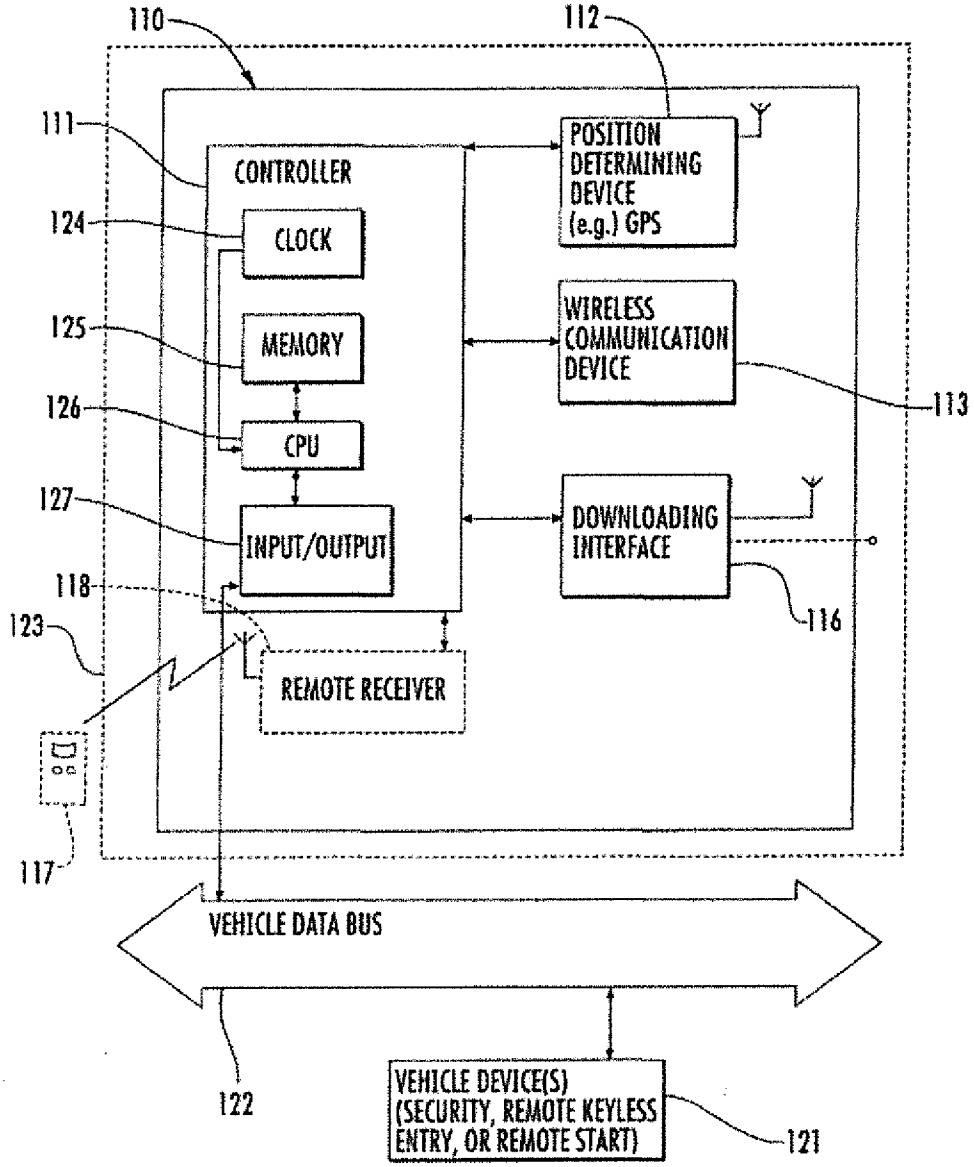


Figure 10 of the '278 Patent

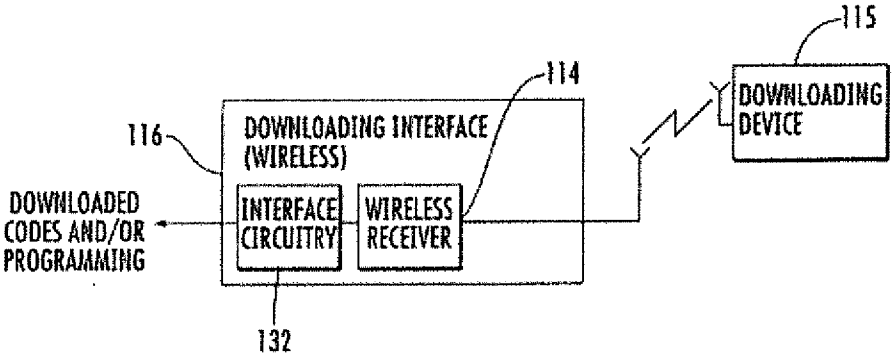


Figure 11 of the '278 Patent

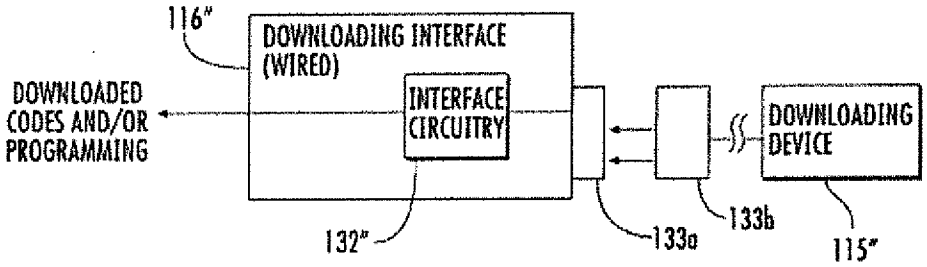


Figure 13 of the '278 Patent

(5) Evidence Improperly Refused Admission Into the Record

The Patent Owner submits that the exhibits attached to the Response to the Final Office Action, filed September 18, 2017 should have been properly admitted to the record.

The Patent Owner respectfully submits that the existing record demonstrates a showing under 37 C.F.R. §1.116(e), which recites: "[a]n affidavit or other evidence submitted after a

final rejection or other final action (§1.113) in an application or in an ex parte reexamination filed under § 1.510, ... may be admitted upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented."

With regards to prior Exhibit 4 filed September 18, 2017 (i.e. the new Rule 132 Declaration of Michael Suman), the Patent Owner firstly submits that this Rule 132 Declaration addresses the claim interpretation position taken by the Examiner in the Final Office Action dated June 19, 2017. Secondly, this Rule 132 Declaration supplements the nexus between the evidence of secondary considerations of non-obviousness and the claimed invention to address the Examiner's comments on prior declaratory evidence at Pages 9-10 of the Final Office Action. Because this declaration was submitted to address concerns noted by the Examiner in the Final Office Action, it could not be presented earlier, and it is necessary since it touches on the skilled person's interpretation of the claims and the nexus between the claimed invention and evidence for secondary considerations for non-obviousness. Accordingly, Exhibit 4 filed September 18, 2017 should be admitted and properly considered.

With regards to Exhibits 5-9 filed September 18, 2017 (i.e. respectively the Trial Transcript from related litigation with the Requester, the Requester Exhibit List from related litigation, the Patent Owner Exhibit List from related litigation, the Court Exhibit List from related litigation, and

the Jury Instructions from related litigation), these exhibits were submitted to address comments and suggestions noted by the Examiner in the Final Office Action.

In particular, in the Final Office Action at page 10, the Examiner stated:

> PO asserts litigation evidence (testimony/trial transcript, exhibits, instructions, see, e.g., page 26, first full paragraph, page 26, second to last line-page 27, line 12, page 28, line 4-page 30, last line, section 3 on page 31 and the testimony excerpts bridging pages 32-37) for the conclusions regarding the secondary considerations. However such referenced testimony/trial transcript, exhibits, instructions are not of record, e.g. jury instructions, or only partially of record, e.g. excerpts of testimony of trial transcript, as best understood. Finally PO asserts the declaration for the conclusions regarding the secondary considerations. However see the discussion of the declaration infra. Note also the evidence of record is silent with regard to the Chou '499 reference.
> (Emphasis added).

The Patent Owner submits that these exhibits were introduced at the suggestion of the Examiner's helpful comments in the Final Office Action, and therefore could not have been presented earlier. Moreover, since the Examiner comments were made within the context of considering prior filed evidence of secondary considerations for non-obviousness, the new exhibits

are necessary and should have been admitted and properly considered.

(6) Argument

As will be described in greater detail below, the Patent Owner respectfully submits that the Examiner erred in the rejections under §102 and §103 and over Chou et al. Chou et al. is not a long and complicated reference, and the Patent Owner submits it fails to render the claimed invention unpatentable. Chou et al. includes five drawing figures -- three of which are essentially the same -- and about eight columns of description.

Indeed, as a prior art reference cited in the prosecution history of the '278 patent, Chou et al. was known by Requester since at least the beginning of the related lawsuit in December of 2013. Having been known and given little value by all concerned in the related litigation with Requester and prior Patent Office proceedings, only now, in a second reexamination proceeding from the same Requester, has the well-known Chou et al. reference gained any traction at all for the Requester.

The Patent Owner respectfully submits that Chou et al. fails to disclose or fairly suggest the claimed multi-vehicle compatible controller and downloading interface in the vehicle tracking unit. Instead, data from the ECUs on the vehicle bus is merely passed from the in-vehicle system to the remote service center of Chou et al. And, in the reverse direction, data is passed to the in-vehicle system in Chou et al. There is no

discussion in Chou et al. of downloading enabling data related to at least device code for use by the multi-vehicle controller in the vehicle. Detailed arguments supporting the patentability of the claimed invention follow.

I. The §102/§103 Rejections Over Chou et al. Should Be Overturned

A. The Teachings of Chou et al.

Figure 1 from Chou et al. is reproduced below for convenience.

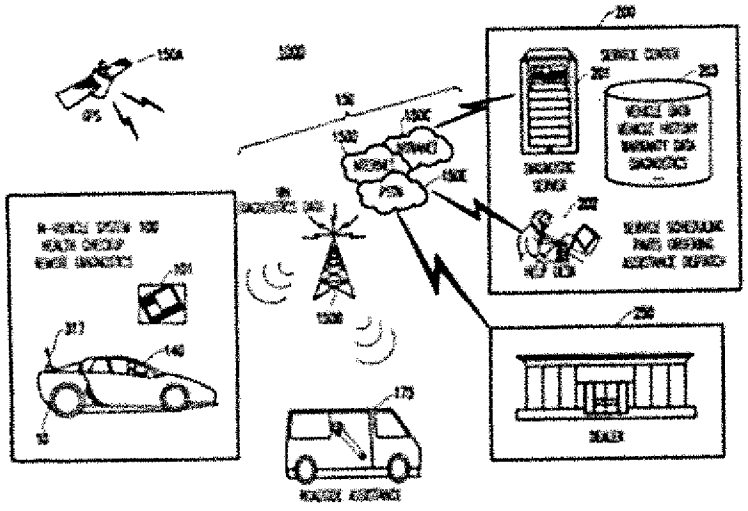


Figure 1 of Chou et al. Patent

The Chou et al. system includes a vehicle 10 having an in-vehicle computing system 100, and a client computer device 101 to enable vehicle health checkup and remote diagnostics. A communication link 150 is for communicating vehicle information (e.g., vehicle identification number, (VIN), diagnostic data, and

the like). The vehicle location is established, for example, by a device 317 (e.g., antenna or the like) for receiving positioning information. A remote service center 200 is also provided having a diagnostic server 201, a help desk 202 and a data repository 203. The help desk 202 schedules services, orders parts, and dispatches assistance through the roadside assistance unit 175. The remote service center 200 of Figure 3 comprises a diagnostic server 201 that has access to data related to the vehicle such as as-built, history, diagnostics, warranty, service information and failure mode data. The diagnosis server 201 is linked to the data repository 203.

The Patent Owner submits that Chou et al. fails to disclose the claimed vehicle tracking unit including the multi-vehicle compatible controller and the downloading interface, as these terms are properly construed.

B. The Deficiencies of Chou et al.

1. Chou et al. is Merely Cumulative of Suman et al.

Chou et al. discloses a remote diagnostic system including a data bus interface, a GPS module, an RF transceiver, and a processor at the vehicle that communicates with a remote service center. The Suman et al. '537 patent, cited as an anticipation reference and overcome in the first reexamination, includes the same elements (see FIGS. 1a and 5, reproduced below, and col. 15, lines 52-63, for example).

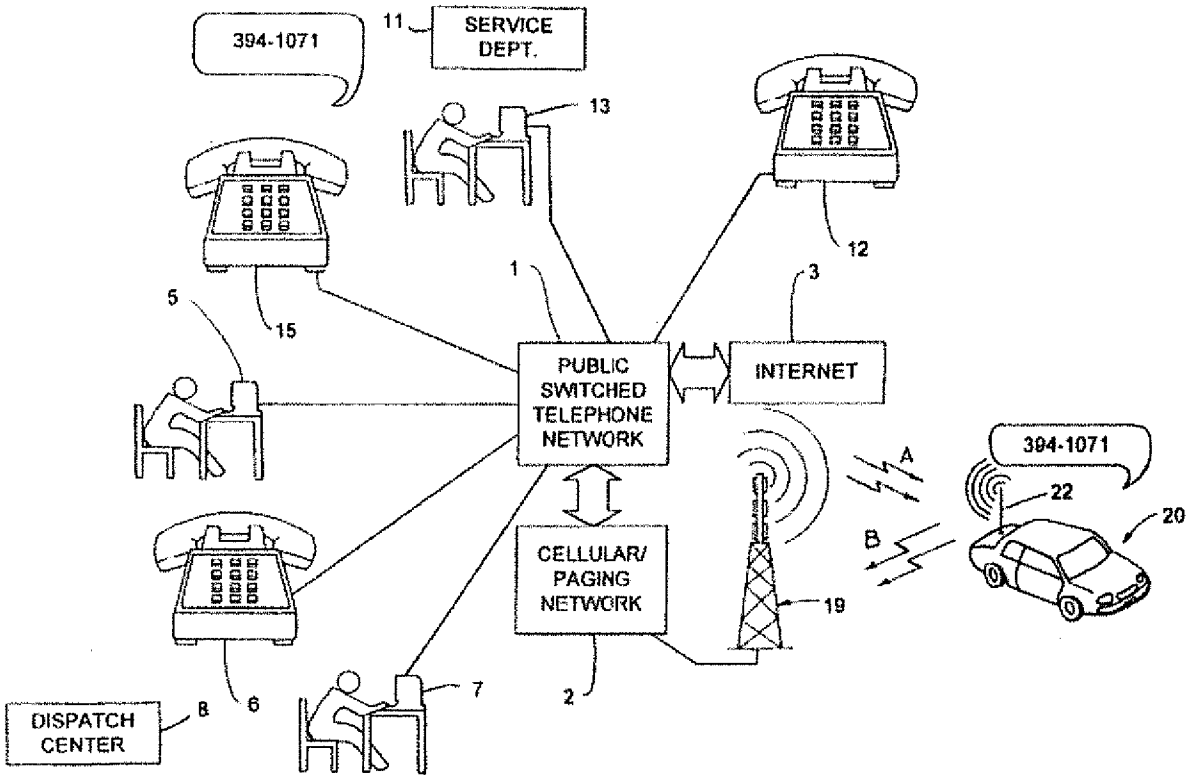


Figure 1a of Suman et al. '537 Patent

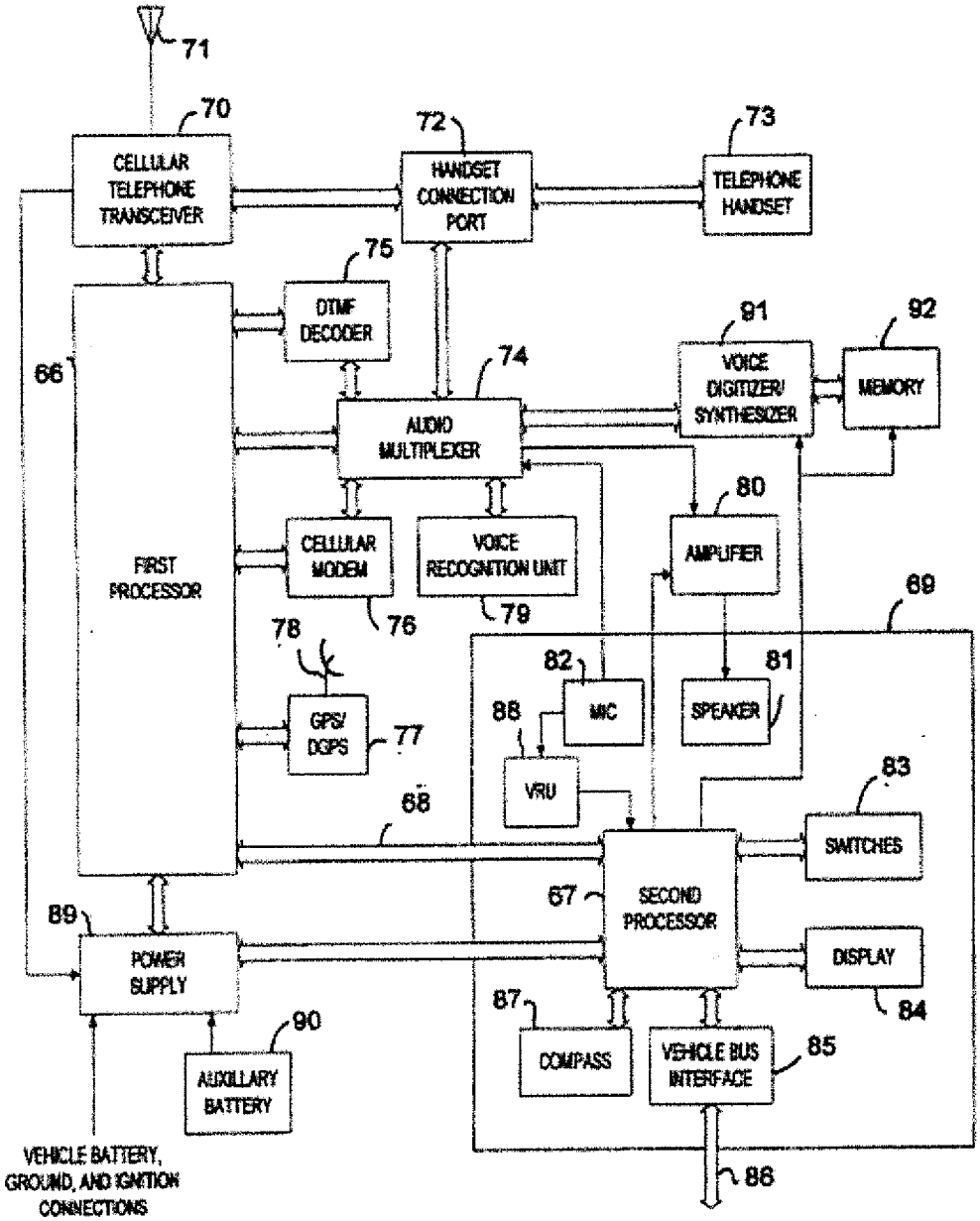


Figure 5 of Suman et al. '537 Patent

As noted above, the Examiner's statement of reasons for patentability in the first reexamination was: "the Examiner agrees that the declarations by Suman and McAlexander provide sufficient evidence that Suman and Spaur each fail to disclose the multi-vehicle compatible controller as recited in independent claims 1, 13 and 18." (Notice of Intent to Issue a Reexamination Certificate, 12/01/2016, page 2, Evidence Appendix Item 9).

Chou et al., just like Suman et al., and as explained in greater detail below, fails to disclose a multi-vehicle compatible controller and downloading interface that permits downloading of enabling data for use by the multi-vehicle compatible controller. These deficiencies of Chou et al. are discussed in greater detail below.

2. Chou et al. Fails to Disclose the Multi-Vehicle Compatible Controller

Independent Claim 1, for example, recites a multi-vehicle compatible controller to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles.

Chou et al. provides the following description of the vehicle bus interface, as is pertinent to the different device codes for different vehicles:

> [t]he vehicle bus interface 120 includes the following modules: vehicle bus adapter 120C, fault detector 120B, and diagnostic data service 120A.

> The fault detector 120B polls the vehicle bus 104 through the vehicle bus adapter 120C checking for fault codes reported by the vehicle ECUs 103. The vehicle bus adapter 120C translates the messages received from the vehicle bus into the language of the fault detector. It also translates messages from the fault detector into the language of the vehicle bus. The fault code specifications and protocols of the vehicle may be Original Equipment Manufacturer (OEM) and model dependent. The term "vehicle fault codes" is meant to be synonymous with the term "trouble code" or "diagnostic trouble code". A listing of such codes may be found in the publication of the Society of Automotive Engineers, "SAE On-Board Diagnostics for Light and Medium Duty Vehicles Standards Manual". The diagnostic data service 120A accepts request for vehicle parametric data and retrieves the data using the vehicle bus adapter.
>
> (Col. 4, lines 20-38; emphasis added).

The Examiner, on pages 35-36 of the Final Office Action, contended that "Chou either implicitly discloses or obviously suggests a 'multi-vehicle compatible controller' and such controller is coupled to a vehicle data bus, e.g. 335, 104, for communication thereover, e.g. via 330, 120, with at least one vehicle device, e.g. 103, using at least one corresponding vehicle device code, i.e. (DTC), vehicle fault codes/protocols, which is vehicle model dependent, i.e. from among a plurality thereof for 'different vehicles'".

The referenced SAE On-Board Diagnostics for Light and Medium Duty Vehicles Standards Manual, i.e. the SAE HS-3000, provides that: "[c]urrently there is no uniformity in these

numeric Diagnostic Trouble Codes (DTC) between manufacturers, and in some cases, even within the same manufacturer across different product lines." (SAE HS-3000, 1997, page 39).

Indeed, the lack of vehicle code compatibility among different vehicles for vehicle tracking units is the problem addressed by the claimed invention of the '278 patent. The inventor, Mr. Flick, recognized that having many different model vehicle tracking units for many different vehicles with different codes presented significant inventory control and product development challenges, particularly in the aftermarket vehicle tracking unit area.

3. Chou et al. Fails to Disclose the Downloading Interface

Independent Claim 1, for example, further recites that the vehicle tracking unit comprises "a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller". Accordingly, the combination of the multi-vehicle controller and downloading interface reduces the need for expansive inventory and simplifies supplying vehicle tracking units for new vehicles.

The Examiner has interpreted the downloading interface of the claimed vehicle tracking unit as structure "for permitting downloading of enabling data related to the at least one corresponding vehicle device code, e.g. vehicle device code or codes, an instruction to select a code or codes from among those

already stored, or the data or sequence to allow the controller to generate the vehicle device code or codes, for use by said multi-vehicle compatible controller." (Final Office Action, page 18; emphasis added).

The Examiner, on page 36 of the Final Office Action, contended that Chou et al. discloses the claimed downloading interface as follows:

> interface circuitry, e.g. NETWORK INTERFACE, 320, 107, docking facility, and a temporary wireless communication link, e.g. arrow 7, 14, arrow 3, 9, with the downloading device, i.e. TCP/IP(an internet/the Internet), 201, provided by sharing the wireless communications device, e.g. 102, that sends position data, see, e.g. col. 7, lines 32-40, (see also discussion of claims 2-5) and such structure permits downloading of enabling data, e.g. instruction to gather data, vehicle parameter update/change, related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller, e.g. steps 2-6 in Figure 5.

Figure 5, which illustrates a health checkup event operation flow, is reproduced below for convenience.

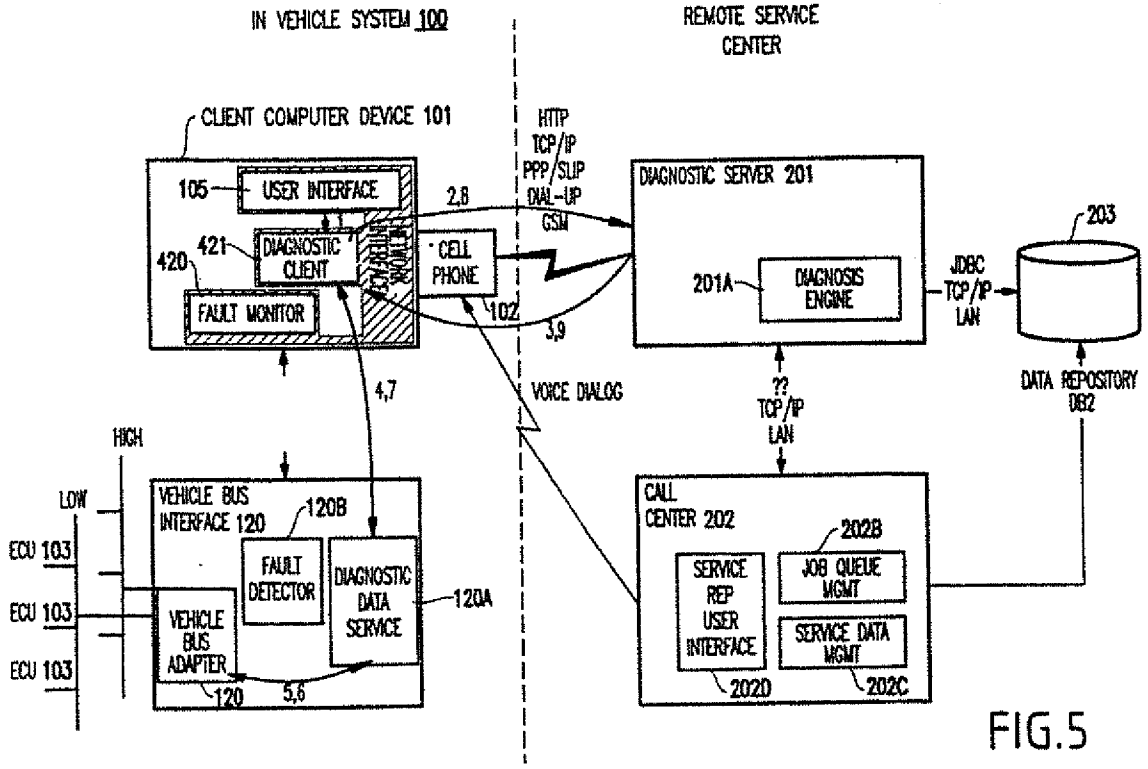


Figure 5 of Chou et al. Patent

Based upon Figure 5 and these cited portions of Chou et al., the Examiner contended that: "[t]hus '499 discloses or obviously suggests 'a downloading interface' and such permits downloading of enabling data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller." (*Id.* at 36-37).

The Patent Owner respectfully submits that Chou et al. fails to disclose or obviously suggest the claimed multi-vehicle compatible controller and downloading interface in the vehicle

tracking unit. Instead, data from the ECUs on the vehicle bus is merely passed from the in-vehicle system to the remote service center of Chou et al. And, in the reverse direction, data is passed to the in-vehicle system in Chou et al. There is no discussion in Chou et al. of downloading enabling data related to at least device code for use by the multi-vehicle controller in the vehicle.

4. Comments on Specific Cited Portions of Chou et al.

The Examiner expressed on page 8 of the Final Office Action that the Patent Owner did not "discuss the entirety of the rejection, i.e. all the cited portions of Chou, e.g. col. 9, lines 35-45, col. 4, lines 15-38, col. 10, lines 1-11, with regard to the corresponding structure and function/capability of the functional phase [downloading interface clause]". To more clearly address these cited portions, the Patent Owner offers the following:

a. Comments on Chou et al. col. 9, lines 35-45

This cited portion of Chou et al. is reproduced below:

> [t]hen in step 2, the diagnostic client 421 initiates a health checkup session with the diagnostic server 201, and in step 3, the diagnostic server instructs the diagnostic client to gather vehicle data, such as VIN, malfunction codes, and/or a snapshot of the vehicle data.

> Then in step 4, the diagnostic client 421 requests the data from the diagnostic data service 120A at the vehicle bus interface 120. Then, in step 5, the diagnostic data service interrogates the ECUs 103 via the vehicle bus adapter 120C for the requested data.

The Patent Owner respectfully notes that this language is with reference to Figure 5 and merely states that the driver can trigger a request for the health checkup of the vehicle. And the driver can do so by pressing a "checkup" button which causes the client computer device in the vehicle to contact the diagnostic server at the remote service center. The diagnostic server at the remote service center reads the vehicle data from the client computer. The vehicle data can include malfunction codes from vehicle ECUs. These malfunction codes are often different for different vehicles.

The diagnostic server at the remote service center also includes the data repository 203 (Figure 1). Chou et al. discloses with respect to such a health checkup that:

> [t]he vehicle client 101 combines vehicle ID information with the information from the vehicle bus interface 120 and sends the data to the Diagnostic Server 201 over a data link. The data link is kept open. The diagnostics server 201 retrieves vehicle information from the data repository 203 and compares the data from the vehicle with the repository data. Then, the diagnostic server 201 prepares a report listing any out-of-range parameters and actions required (e.g., "coolant level is low"). Trend analysis on the parameters may also be performed, based on the present and historical data collected from the

> vehicle, to detect any drifting of the performance characteristics and to provide early guidance for preventive maintenance (e.g., "change oil in 1500 miles"). (Col., lines 9-21).

Accordingly, the Patent Owner respectfully submits that there is no enabling data downloaded via a downloading interface for use by a multi-vehicle compatible controller for communication by a vehicle device using at least one corresponding code from among a plurality thereof for different vehicles. Instead, this cited portion of Chou et al. merely discloses obtaining diagnostic data at a remote service center from a vehicle. The Patent Owner also respectfully notes that this is cumulative with the teachings of Suman et al., an asserted anticipatory reference overcome in the first reexamination, as discussed above.

b. Comments on Chou et al. col. 4, lines 15-38

This cited portion of Chou et al. is reproduced below:

> [t]he vehicle bus interface 120 is responsible for replying to requests for parametric data. It is also responsible for continuously monitoring the vehicle bus 104 for any fault reported by the ECUs 103, in terms of diagnostic trouble codes (DTCs).
>
> The vehicle bus interface 120 includes the following modules: vehicle bus adapter 120C, fault detector 120B, and diagnostic data service 120A. The fault detector 120B polls the vehicle bus 104 through the vehicle bus adapter 120C checking for fault codes reported by the vehicle ECUs 103. The

> vehicle bus adapter 120C translates the messages received from the vehicle bus into the language of the fault detector. It also translates messages from the fault detector into the language of the vehicle bus. The fault code specifications and protocols of the vehicle may be Original Equipment Manufacturer (OEM) and model dependent. The term "vehicle fault codes" is meant to be synonymous with the term "trouble code" or "diagnostic trouble code". A listing of such codes may be found in the publication of the Society of Automotive Engineers, "SAE On-Board Diagnostics for Light and Medium Duty Vehicles Standards Manual". The diagnostic data service 120A accepts request for vehicle parametric data and retrieves the data using the vehicle bus adapter.

As noted by the Patent Owner in the previous response and repeated above, the ECUs will indeed use their own respective trouble codes, and these codes are different for different vehicles. The SAE On-Board Diagnostics for Light and Medium Duty Vehicles Standards Manual, i.e. the SAE HS-3000, referred to in Chou et al. and of record in the reexamination, provides that: "[c]urrently there is no uniformity in these numeric Diagnostic Trouble Codes (DTC) between manufacturers, and in some cases, even within the same manufacturer across different product lines." (SAE HS-3000, 1997, page 39). The lack of vehicle code compatibility among different vehicles for vehicle tracking units is the problem addressed by the claimed invention of the '278 patent.

c. Comments on Chou et al. col. 10, lines 1-11

This cited portion of Chou et al. is reproduced below:

> [i]t may be desirable to bundle the remote health monitoring and diagnostics with other services or to extend it with related application functions. For example, the remote diagnostics service could certainly be offered on top of an Emergency/Mayday service (e.g., "OnStar"). Other applications and services that can be developed or bundled as extensions of the diagnostics services include: breakdown service, network diary, vehicle user manual update, OEM Callback Services, fleet management, theft prevention, vehicle parameter update/change, remote vehicle access, concierge services, etc.

The quoted language is highly generalized regarding possible additional services. It is unclear what if anything this language has to do with the claimed invention. It is unspecified and unclear which possible services are to be possibly implemented using one or more of the remote service center 200, the dealer 250, the roadside assistance vehicle 175, the in-vehicle system 100, and/or some other third party facility or equipment.

Chou et al. discloses that the diagnostic server at the remote service center lists "out-of-range parameters" and performs "trend analysis on the parameter values". (Col. 9, lines 12-21). Accordingly, the cited portion with respect to vehicle parameter update/change could readily be performed at the remote service center alone.

The Patent Owner respectfully asserts that if a claim element is not expressly disclosed by the prior art, the prior art reference must inherently disclose the claim element to anticipate it. (*See In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999)). The court went on to state that:

> [t]o establish inherency, the extrinsic evidence "must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill." *Continental Can Co. v. Monsanto Co.*, 948 F.2d 1264, 1268, 20 U.S.P.Q.2D (BNA) 1746, 1749 (Fed. Cir. 1991). "Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient." Id. at 1269, 20 U.S.P.Q.2D (BNA) at 1749 (*quoting In re Oelrich*, 666 F.2d 578, 581, 212 U.S.P.Q. 323, 326 (C.C.P.A. 1981). *Id.* at 745. (Emphasis added).

The Manual of Patent Examining Procedure (MPEP) also states: "[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic." (MPEP §2112, *citing In re Rijckaert*, 9 F.3d 1531, 1534 (Fed. Cir. 1993); *In re Oelrich*, 666 F.2d 578, 581-82, (CCPA 1981); and *Metabolite Labs., Inc. v. Lab.Corp. of Am. Holdings*, 370 F.3d 1354, 1367 (Fed. Cir. 2004)).

The Patent Owner respectfully submits that this cited portion of Chou et al. adds nothing to the asserted deficiencies

elsewhere in Chou et al. Moreover, there is no proper way to attempt to read this cited section as inherently disclosing any of the recited claim elements.

5. Chou et al. Teaches Away from the Claimed Invention

The Patent Owner again submits that the teachings of Chou et al. include that the in-vehicle computer system (the left hand side of Figure 5) simply interfaces to the various specific ECUs on the bus. Further, Chou et al. teaches that the diagnostic server of the remote service center (on the right hand side of Figure 5) provides the ability to read data from the data bus or write data to the data bus, even though different manufacturers and different models use different codes for their ECUs. In other words, Chou et al. teaches away from the claimed vehicle tracking unit including the multi-vehicle controller and downloading interface.

For example, Chou et al. provides that:

> [t]he remote service center 200 of FIG. 3 comprises a diagnostic server 201 that has access to data related to the vehicle such as as-built, history, diagnostics, warranty, service information and failure mode data. The diagnosis server 201 is linked to the data repository 203 via a TCP/IP link, LAN, or the like.
>
> (Col. 5, lines 34-39; emphasis added).

And Chou et al. also provides:

> [w]ithin the diagnostic server 201 at the service center 200 is a diagnosis engine 201A. The main

> function of the diagnosis engine 201A is to provide a health checkup or a diagnosis using the data obtained from the vehicle, the vehicle's past history, and the diagnostics information about the particular model of the vehicle.
>
> (Col. 5, line 53-58; emphasis added).

In operation, "[t]he diagnosis engine 201A first determines if a fault or a potential of a fault is present by checking if any trouble code is reported by the client, and checking a predetermined list of vehicle attribute values against their normal operating characteristics." (Col. 5, lines 61-64).

During the diagnosis session, "the diagnostic client 421 passes the fault codes, vehicle identification and other relevant information to the [diagnostic] server 201". (Col. 8, lines 19-21). The fault detector and diagnostic client are both at the vehicle, and, the diagnostic server is at the remote service center. The diagnostic server can also request data from the diagnostic client at the vehicle.

The vehicle driver may also initiate a vehicle health checkup. Chou et al. further describes this health checkup as follows:

> [t]hen, vehicle information, estimated to be on the order of 1 kilobyte in size, including, for example, vehicle identification number (VIN), any trouble codes, and/or a snapshot of the vehicle data, are retrieved by the vehicle client 101 through the vehicle bus interface 120. The vehicle client 101 combines vehicle ID information with the information from the vehicle bus

> interface 120 and sends the data to the Diagnostic Server 201 over a data link. The data link is kept open. The diagnostics server 201 retrieves vehicle information from the data repository 203 and compares the data from the vehicle with the repository data. Then, the diagnostic server 201 prepares a report listing any out-of-range parameters and actions required (e.g., "coolant level is low").
>
> (Col. 9, lines 3-16; emphasis added).

The Patent Owner submits that Chou et al. teaches that the ability to work with different vehicle device codes is provided at the remote service center using the diagnostic server 201 in combination with the data repository 203 (Figure 1) also at the remote service center - and not at the vehicle. Chou et al. provides no disclosure, express or inherent, and no reason, for this capability to be provided at the in-vehicle system.

Thus, Chou et al. teaches away from the vehicle tracking unit of the claimed invention that includes: the multi-vehicle compatible controller to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles, and the downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by the multi-vehicle compatible controller.

Accordingly, the Patent Owner submits that independent Claims 1 and 18 are patentable over Chou et al. Spaur et al. is cited for the teaching of a wired connection in the rejection of

independent Claim 13, and, the Patent Owner submits that Spaur et al. adds nothing to the deficiencies of Chou et al. Accordingly, independent Claim 13 is also patentable. In view of the patentability of the independent Claims 1, 13 and 18, it is submitted that their dependent claims are also patentable, and require no further discussion herein.

C. Evidence of Secondary Considerations and Declaration Evidence

1. Secondary Considerations of Non-Obviousness

To rebut the Examiner's obviousness rejections based upon the Chou et al. patent, the Patent Owner can offer the following secondary considerations supporting non-obviousness. As noted by the Federal Circuit in *Mintz v. Dietz*, 679 F.3d 1372 (Fed. Cir. 2012), the following helpful guidance is provided with respect to the objective criteria of secondary considerations:

> [t]hese objective criteria thus help turn back the clock and place the claims in the context that led to their invention. Technical advance, like much of human endeavor, often occurs through incremental steps toward greater goals. These marginal advances in retrospect may seem deceptively simple, particularly when retracing the path already blazed by the inventor. For these reasons, this court requires consideration of these objective indicia because they "provide objective evidence of how the patented device is viewed in the marketplace, by those directly interested in the product."
> (*Id.* at 1378; emphasis added).

Mintz further provides:

> [i]ndeed, where the invention is less technologically complex, the need for Graham findings can be important to ward against falling into the forbidden use of hindsight. Simply because the technology can be easily understood does not mean that it will satisfy the legal standard of obviousness. In fact, objective consideration of simple technology is often the most difficult because, once the problem and solution appear together in the patent disclosure, the advance seems self-evident. Instead, the proper analysis requires a form of amnesia that "forgets" the invention and analyzes the prior art and understanding of the problem at the date of invention.
> (*Id.* at 1379; emphasis added).

The Patent Owner sets forth below evidence of licensing, commercial success, copying by others, customer need, and limited value of products without the claimed invention.

a. Licensing

The '278 patent in Claim 1, for example, is directed to a multi-vehicle compatible tracking unit for a vehicle comprising a vehicle data bus extending throughout the vehicle. The multi-vehicle compatible tracking unit comprises a vehicle position determining device, a wireless communications device, and a multi-vehicle compatible controller for cooperating with the vehicle position determining device and the wireless

communications device to send vehicle position information. The multi-vehicle compatible controller is to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles. The multi-vehicle compatible tracking unit comprises a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by the multi-vehicle compatible controller.

The Patent Owner points to the following excerpt from the Jury Verdict form (Evidence Appendix Item 1) from the related litigation establishing the merits of the claimed invention and the licenses:

5. **Which of the following factors that tend to indicate nonobviousness, if any, has been established by the evidence with respect to the claimed invention (write the word "yes" in the blank below to any question that you answer "yes" to):**

YES **Did others accept licenses under patents because of the merits of the claimed invention?**

In other words, after observing all of the testimony of the witnesses, reviewing the exhibits presented during trial, and applying the Court's Jury Instructions, the Jury determined that the licenses were based on the merits of the claimed invention, including the '278 patent.

As noted in Mr. McAlexander's Declaration (Evidence Appendix Items 5-6), the Patent Owner has received in excess of $50 million in licensing revenue, from the '278 patent and the other asserted patents in the related litigation.

Mr. McAlexander also notes that the '278 patent is one of three patents asserted in the related litigation providing features for multi-vehicle compatibility; and, multi-vehicle compatibility is important for the overall licensing program of the Patent Owner.

Mr. McAlexander cites to Requester's own employees' trial testimony for the propositions that the multi-vehicle compatibility provides for simplified installation and avoids the need to have multiple SKUs (stock keeping units). Further details regarding the "customer need" and "limited value" without the multi-vehicle compatibility are provided below.

b. Commercial Success

The Patent Owner respectfully points to the following excerpt from the Jury Verdict form from the related litigation that provides evidence of commercial success due to the merits of the claimed invention:

5. **Which of the following factors that tend to indicate nonobviousness, if any, has been established by the evidence with respect to the claimed invention (write the word "yes" in the blank below to any question that you answer "yes" to):**

YES **Were accused products covered by the claim commercially successful due to the merits of the claimed invention rather than due to advertising, promotion, salesmanship, or features of the product other than those found in the claim?**

Furthermore, the Jury also determined that the features of the '278 patent were included in the infringing Requester devices. The Jury determined that asserted claims of the '278 patent were infringed, and the Court determined the infringement was willful. The Jury Verdict evidences that products sold by Requester correspond to the claimed invention.

This is the pertinent portion of the Jury Verdict form:

	LMU-3000	LMU-3030	LMU-3050	VPOD	VPOD2
Claim 1	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 2	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 3	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 4	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 5	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 6	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 8	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 11	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No

	LMU-3000	LMU-3030	LMU-3050	VPOD	VPOD2
Claim 12	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No		
Claim 13	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 14	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 16	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 18	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 19	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 21	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No

As noted in Mr. McAlexander's Declaration, Requester

has sold over 466,000 units of the accused products, earning over $4.1 million in gross profits (citing to the Tregillis financial expert report).

Mr. McAlexander also notes that the '278 patent is one of three patents asserted in the related litigation providing features for multi-vehicle compatibility; and, multi-vehicle compatibility is important for the overall licensing program of the Patent Owner. Mr. McAlexander cites to Requester's own employees' trial testimony for the propositions that the multi-vehicle compatibility provides for simplified installation and avoids the need to have multiple SKUs (stock keeping units).

c. Copying by Others

Once again, the Patent Owner points to the following excerpt from the Jury Verdict form from the related litigation that establishes copying:

5. **Which of the following factors that tend to indicate nonobviousness, if any, has been established by the evidence with respect to the claimed invention (write the word "yes" in the blank below to any question that you answer "yes" to):**

YES **Did others copy the claimed invention?**

The Jury's finding of infringement of all of the asserted claims of the '278 patent (provided above) establishes

that Requester's products correspond to the claimed invention. The Court's Final Order and Final Judgment (Evidence Appendix Items 3 and 7) confirm the Jury's Verdict.

d. Customer Need

The Patent Owner directs the Patent Trial and Appeal Board's (PTAB) attention first to the Court's determination in the related litigation. In its Final Order, the Court provides:

> Rather than take a license, and choosing not to design around Omega's patents, CalAmp elected to sell infringing products and continues to do so to this day. CalAmp's motivation to engage in this behavior is obvious: their customers wanted this technology and CalAmp [Requester] wanted to provide it. (Final Order, page 19; Emphasis added.)

The McAlexander Declaration provides that the multi-vehicle accused products in the Requester litigation were developed because of "customer need" for a simple installation that did not require splicing of wires. Mr. McAlexander's position is supported by the following testimony of Mr. Stephen Hall and Mr. Peter Hergesheimer, both Requester employees, as follows:

Testimony of Requester Employee Stephen Hall

Q. Can you introduce yourself for the record

A. Yes. My name is Stephen Hall. The correct

spelling is S-t-e-p-h-e-n.

Q. All right, sir. And by whom are you employed?

A. I'm an employee of CalAmp Corporation.

Q. Do you have a title at CalAmp?

A. My official title is director of system engineering and technology.

Q. What does it mean to be the director of system engineering and technology at CalAmp?

A. My role is to look at the needs of our customer and market and to match them up with various technologies that are going on in the industry component level and otherwise to make sure that we have an appropriate solution. (Stephen Hall deposition, 6:8-22).

Q. All right, sir. I'm going to hand you what was previously marked as Exhibit 1 to the deposition of Mr. Hergesheimer. Can you tell me what Exhibit 1 is?

A. I'm looking at a CalAmp datasheet for the LMU-3000 product.

Q. And were you involved in the development of the LMU-3000?

A. I was.

Q. And what was your role in developing the LMU-3000?

A. My role on the 3000 was at the CRS level. I provided the requirements document for that. The various blocks within it were predefined by our existing partnerships, and so I didn't do a lot of component selection type of work, so it was really limited just to the CRS document.

Q. Was there a particular market need that you identified leading up to the creation of the CRS for the LMU-3000?

A. The 3000 was driven by a general market need that we heard from a number of customers. The primary interest was coming from a need for a *simple installation type of solution* and the opportunity to enhance the capability of the product that we could offer with certain data items coming off of the vehicle bus. (Stephen Hall deposition, 6:8-22; and 40:20-41:12; Emphasis added).

Testimony of Requester Employee Peter Hergesheimer

Q. You have been designated as a representative on whether CalAmp has willfully or deliberately infringed in this case. Beyond knowing about the devices and how they operate, do you know anything about CalAmp's assertions that its actions are not

willful or deliberate?

A. I would say from my experience in the development of these devices that there's no willful infringement.

Q. And -- and what's that based on?

A. That's based on knowing where the -- the technology that we use came from and the fact that these were sales-driven requests and somebody had a problem to solve and we went about solving the problem.

Q. What do you mean sales-driven request?

A. Well, typically our -- typically we have a customer that says hey, I would like to do this particular -- have a product that has this feature and so CalAmp goes about designing that product.

Q. So the LMU3000 development was the result of - or was -- was undertaken because customers expressed a demand to CalAmp for these products?

A. I -- I believe that's the case. I can't say specifically for these, but that's in general how our product development works. (Peter Hergesheimer deposition, 40:6 - 41:3).

e. Limited Value for Products Without the Invention

The PTAB's attention is directed to the section above regarding Commercial Success. The Patent Owner asserts that the accused products as covered by the '278 patent would have "limited value" if it were not for multi-vehicle compatibility. Requester's own employee, Peter Hergesheimer, testified as follows:

Testimony of Requester Employee Peter Hergesheimer

Q. Can you state your name for the record.

A. Peter Hergesheimer.

Q. All right. Sir, and by whom are you employed?

A. CalAmp.

Q. Okay. And what's your position at CalAmp?

A. I'm the senior director of software and architecture in the MRM group. (Peter Hergesheimer deposition, 6:2-8).

Q. Do you know whether the LMU3000 would have any value if it didn't work on multiple vehicles?

A. It would have a limited value.

Q. You would need separate skus for each vehicle; right?

A. That would be one way of solving that problem.

Q. Is there any other way?

A. Different skus could be different software got loaded onto the same sku.

Q. Okay. So you can -- whether you have a different sku or not, you would need to -- if -- if the LMU3000 was vehicle specific, it would need software for each vehicle in which it was -- separate software for each vehicle in which it was designed to work?

A. Each vehicle type I would guess, yes.

Q. And that would be a more expensive exercise, I would think, from CalAmp's perspective?

A. Yes.

Q. And less desirable than the -- than the option you have now where the LMU is able to service multiple vehicles?

A. Yes, even though it is still pretty painful.

(Peter Hergesheimer deposition, 46:25 - 47:19; Emphasis added).

In view of the evidence of secondary considerations the Patent Owner submits that any obviousness type rejection of the pending claims is rebutted.

2. Nexus for Secondary Considerations of Non-Obviousness

On pages 9-10 of the Final Office Action, the Examiner contended that the "evidence of secondary considerations must be related to the claimed invention, i.e. a nexus between the invention as claimed and evidence of the secondary consideration." The Patent Owner submitted the relevant court documents finding evidence of secondary considerations which necessarily includes a finding of nexus, submitted trial testimony that constituted the evidence at trial resulting in finding of evidence of secondary considerations for the asserted patents including the '278 patent, and submitted the Declaration of Mr. McAlexander further explaining his analysis and conclusions from the evidence he considered, as set forth in paragraphs 19a-19j of his Declaration.

The Patent Owner respectfully submits that evidence of secondary considerations, including nexus, has been presented and requests favorable reconsideration.

Further, the Patent Owner highlights this passage from page 10 of the Court Order (Evidence Appendix Item 3), which highlights the nexus between the claims of the '278 patent and the copying by Requester, CalAmp:

> [f]urther indicia of willful infringement by CalAmp is found in an e-mail sent by Mr. Chen to outside patent counsel, Mr. David Bailey 12, and senior vice president for corporate development, Mr. Garo Sarkissian. (Doc. 182, 112:13-19). On July 30, 2013, eight months after Omega instituted this lawsuit, Mr. Chen wrote to Messrs, Bailey, and

> asked them to look at the '278 patent. (Pl.'s Ex. 48). Referring to claim 13 of the '278 patent, Mr. Chen wrote: "13 may relate to how we program a unit at the factory so it may be harder to avoid." (Id.). The '278 patent has as an object of the invention to "provide a multi-vehicle compatible tracking unit which may be used to control operable vehicle devices, and/or read information therefrom via the vehicle data communications bus." (Joint Ex. 5, column 2, lines 46-49). Clearly, Mr. Chen was concerned as late as July 30, 2013, that the accused devices infringe claim 13 of the '278 patent, as the jury ultimately found. His admission in this e-mail that the units are programed at the CalAmp factory is further evidence that his trial testimony describing the LMU as a black box, programmed by the end-user, was false.
>
> (Emphasis added).

The Examiner also noted that "the evidence of non-obviousness (i.e. testimony/trial transcript, exhibits, instructions) are not of record, e.g. jury instructions, financial expert Reports, or only partially of record, e.g. excerpts of testimony of trial transcript, as best understood." To address the Examiner's concern the following materials were submitted, yet the Examiner refused to enter and consider these materials in the response filed September 18, 2017: Exhibit 5, trial transcript; Exhibit 6, list of defendant's trial exhibits; Exhibit 7, list of plaintiff's trial exhibits; Exhibit 8, list of Court's trial exhibits; and Exhibit 9, jury instructions. Even without these further materials as requested by the Examiner, but not entered into the record or considered, the Patent Owner has

still submitted evidence of secondary considerations and established the required nexus. In view of the evidence of secondary considerations, the Patent Owner submits that any obviousness type rejection of the claims is overcome.

3. Mr. McAlexander Declaration Evidence

The Examiner contended that the positions and opinions of Declarant, Mr. McAlexander, were merely conclusory. The Patent Owner points out that the McAlexander Declaration sets forth the analysis performed by highly experienced patent agent and technical expert whose analysis and trial testimony was persuasive at the related litigation, and whose earlier declaration was part of the basis for the USPTO confirming the claims of the '278 patent in the first reexamination. Mr. McAlexander states his understanding of the claims, cites to the specific relevant teachings of Chou et al. as would be understood by one of skill in the art, and renders his opinions. His opinions are not merely conclusory.

Mr. McAlexander's analysis also walks through the extensive evidence of secondary considerations in a detailed and thorough manner. Accordingly, the PTAB is respectfully requested to reconsider the McAlexander Declaration.

II. The Reexamination Was Improperly Granted

The Patent Owner respectfully submits that the present Requester's repeated request for ex parte reexamination should

have been rejected as being wasteful of USPTO resources and being fundamentally unfair to the Patent Owner.

In the past, the USPTO has exercised discretion to deny third party requests for ex parte Reexamination. (*See In re Portola Packaging Inc.*, 110 F.3d 786, 791 (Fed. Cir. 1997) *superseded by* 35 U.S.C. §303(a) ("a rejection made during reexamination does not raise a substantial new question of patentability if it is supported only by prior art previously considered by the PTO in relation to the same or broader claims.")). In the legislative history of this statutory amendment to 35 U.S.C. §303(a), it was noted that the USPTO would stand as the gatekeeper for the ex parte reexamination procedure to prevent unfair harassment of the Patent Owner. The legislative history states:

> [t]he bill preserves the necessary safeguard in the Patent Act against harassment of patentees with the safety-valve of a "substantial new question of patentability" standard, not merely "any sort of question." The agency has discretion in this determination to permit reexamination, but it is not absolute.
> ...
> However, this bill is not a license to abuse patentees and waste the life of a patent. (107 H. Rpt. 120).

Notwithstanding this legislative adjustment from Congress, this discretionary denial of serial post grant review requests has evolved in the relatively new IPR, provided by the

Leahy-Smith America Invents Act (AIA). In a recent line of decisions, the PTAB has delineated a rule governing follow-on requests for IPR. (*See Nvidia Corp. v. Samsung Electronics. Co.*, 2016 Pat. App. Filings LEXIS 3606; and *General Plastic Indust. Co. v. Canon Kabushiki Kaisha*, IPR2016-01357-61 (PTAB), *available at* http://bit.ly/2zAOS3w).

In *Nvidia*, the PTAB provided a list of factors to consider when exercising the statutory discretion to order the IPR. The list of factors included:

> (1) the finite resources of the Board;
>
> (2) the requirement under 35 U.S.C. §316(a)(11) to issue a final determination not later than 1 year after the date on which the Director notices institution of review;
>
> (3) whether the same petitioner already previously filed a petition directed to the same claims of the same patent;
>
> (4) whether at the time of filing of the first petition the petitioner knew of the prior art asserted in the second petition or should have known about it;
>
> (5) whether at the time of filing of the second petition the petitioner already received patent owner's preliminary response to the first petition or received the Board's decision on whether to institute review in the first petition;
>
> (6) the length of time that elapsed between the time petitioner learned of the prior art

> asserted in the second petition and filing of the second petition; and
>
> (7) whether petitioner provides adequate explanation for the time elapsed between the filings of multiple petitions directed to the same claims of the same patent.
> (*Id.* at 8-9).

The PTAB remarked about the: "potential inequity based on a petitioner's filing of serial attacks against the same claims of the same patent, while having the opportunity to adjust litigation positions along the way based on either patent owner's contentions responding to prior challenges or the Board's decision on prior challenges, is real and cannot be ignored." (*Id.* at 10; emphasis added). The PTAB stated that repeated requests for IPR would not be barred under a bright line rule, but each request would need to be reviewed under a case-by-case basis. (*Id.*).

In *General Plastics*, the PTAB again applied the *Nvidia* factors in denying follow-on requests for IPR. In making their determination, the PTAB noted that the petitioner had modified their requests based upon the Patent Owner's response in the first request for IPR and the PTAB's own comments. The PTAB went on to state: "[t]he filing of sequential attacks against the same claims, with the opportunity to morph positions along the way, imposes inequities on [Patent Owner]." (Slip. Op at 11).

In the current appeal, the present reexamination resulted from a request filed as a follow-on request to a first

reexamination, then pending, that eventually resulted in a Reexamination Certificate. The present reexamination request was filed only after reviewing the Patent Owner's response in the first reexamination. Indeed, the present reexamination request was essentially an end-around third party reply to the Patent Owner's response in the first reexamination. To this end, the present reexamination request included a section titled: "PROCEEDINGS IN PENDING RE-EXAMINATION OF FLICK '278 PATENT WITH CONTROL NO. 90/013,587". (Pages 26-31 of the Request). In fact, the present reexamination request challenged the proper decision to drop rejections in the first reexamination. (See Page 7 of the Request ("the Beckert '363 patent was considered during the Flick '587 Reexam, but was ***inexplicably*** withdrawn from the Flick '587 Reexam with no reasons being made on the record as to why this rejection was being withdrawn. ***Accordingly, Requester is again resubmitting this reference***"; emphasis added)).

The Patent Owner submits that the Requester's efforts are an improper and roundabout attempt to fashion the present ex parte reexamination into an IPR. The Patent Owner notes that the IPR option was available to the Requester, but the Requester rather chose to move forward with litigation in the Federal Court system, which ultimately resulted in a total rejection of the Requester's invalidity arguments and a finding of willful infringement. Nevertheless, not apt to be without options, the Requester filed the first request for ex parte reexamination just prior to the original scheduled start of trial.

The Patent Owner notes that the present reexamination resulted from a request that was largely duplicative of the failed first reexamination. In particular, the Beckert, Spaur et al. and Suman et al. prior art references, each used to argue substantial new questions of patentability in the present reexamination's request, were all applied in rejections in the first reexamination.

Moreover, the only new prior art reference, Chou et al., was known to the Requester long before the filing of follow-on present reexamination's request. The Patent Owner notes that Chou et al. was considered in the original prosecution of the '278 patent, as correctly noted by the Examiner on page 41 of the Reexamination Order Determination dated December 15, 2016. Indeed, the Chou et al. prior art reference was cited in multiple parents of the '278 patent. (*See* U.S. Patent Nos. 7,720,597, 7,149,623, and 6,606,561). Yet further, the Chou et al. prior art reference was mentioned 2 times in the appendix of the Requester's own litigation expert (a document dated April 15, 2015, a full 4 months before the filing of the first request for reexamination). Hence, the Patent Owner notes that the Requester not only should have known about the Chou et al. prior art reference at the time of filing of request for the first reexamination, but actually did know about the Chou et al. prior art reference at the time of the filing of the request for the first reexamination, but did not include the Chou et al. reference in view of the deficiencies as noted herein.

The Patent Owner submits that such sequential/serial requests for ex parte reexamination, which spend hundreds of pages arguing that the prior Examiner's panel in the first reexamination was wrong, is a waste of USPTO resources. The proper venue for such USPTO based litigation is the IPR, but the Requester strategically skipped that option, choosing rather to drag the Patent Owner through costly Federal Court litigation.

The Patent Owner submits that the Requester is abusing USPTO procedures in a fashion that is fundamentally unfair to the Patent Owner. Indeed, it is not only in this present reexamination where the Requester has continued to file sequential/serial requests after failing to invalidate the patent at trial, and after a first reexamination try. For U.S. Patent No. 6,756,885, which was successfully asserted against the Requester in the related litigation, the first reexamination resulted in a Reexamination Certificate issued August 1, 2017. Not three months later, the Requester filed yet another follow-on request for reexamination for U.S. Patent No. 6,756,885 (Reexamination 90/014,038 - filed October 26, 2017). Quite succinctly, the Requester has laid bare a strategy to serially attack the Patent Owner via the ex parte reexamination process.

Although the decision to order an ex parte reexamination is not expressly appealable, (*see* 35 U.S.C. §306), the Patent Owner contends that the PTAB should adopt an *Nvidia* style standard for reviewing serial requests for ex parte reexaminations. The Patent Owner notes that many of the same

inequities from *Nvidia* are in play in the present reexamination. In particular, the present reexamination represents a waste of USPTO, Federal Court, and PTAB resources, and utilizes prior art references the Requester had knowledge of at time of the filing of the first request for reexamination. The Requester utilized the Patent Owner's response in the first reexamination to fashion a pseudo inter partes response in an end-around on the limits of post grant review procedures. Because of these inequities, the Patent Owner respectfully submits that the PTAB should apply an *Nvidia* standard to this particular ex parte reexamination and overturn the current rejection.

CONCLUSIONS

In view of the foregoing arguments, it is submitted that all of the claims are patentable over the prior art. Accordingly, the PTAB is respectfully requested to reverse the earlier unfavorable decision by the Examiner.

Respectfully submitted,

JACK GEORGE ABID
Reg. No. 58,237
Allen, Dyer, Doppelt,
& Gilchrist, P.A.
255 S. Orange Avenue, Suite 1401
Post Office Box 3791
Orlando, Florida 32802
Telephone: 407/841-2330
Fax: 407/841-2343
Attorney for Patent Owner

APPENDIX A - CLAIMS ON APPEAL

1. A multi-vehicle compatible tracking unit for a vehicle comprising a vehicle data bus extending throughout the vehicle, the multi-vehicle compatible tracking unit comprising:

a vehicle position determining device;

a wireless communications device;

a multi-vehicle compatible controller for cooperating with said vehicle position determining device and said wireless communications device to send vehicle position information;

said multi-vehicle compatible controller to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles; and

a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller.

2. The multi-vehicle compatible tracking unit according to claim 1 wherein said downloading interface comprises a wired signal downloading interface.

3. The multi-vehicle compatible tracking unit according to claim 2 wherein said wired signal downloading interface comprises a connector for temporary connection to a downloading device.

4. The multi-vehicle compatible tracking unit according to claim 1 wherein said downloading interface comprises a wireless signal downloading interface.

5. The multi-vehicle compatible tracking unit according to claim 4 wherein said wireless signal downloading interface comprises a wireless receiver for temporary connection to a downloading device.

6. The multi-vehicle compatible tracking unit according to claim 1 wherein the corresponding at least one vehicle code is for reading from the at least one vehicle device.

7. The multi-vehicle compatible tracking unit according to claim 1 wherein the corresponding at least one vehicle code is for writing to the at least one vehicle device.

8. The multi-vehicle compatible tracking unit according to claim 1 wherein said downloading interface is also for permitting downloading of at least one programming instruction for said multi-vehicle compatible controller.

9. The multi-vehicle compatible tracking unit according to claim 1 further comprising a remote transmitter; and wherein said multi-vehicle compatible controller also performs at

least one vehicle remote control function responsive to said remote transmitter.

10. The multi-vehicle compatible tracking unit according to claim 9 wherein the at least one vehicle remote control function comprises at least one of a vehicle security function, a remote keyless entry function, and a remote engine starting function.

11. The multi-vehicle compatible tracking unit according to claim 1 wherein said wireless position determining device comprises a Global Positioning System (GPS) receiver.

12. The multi-vehicle compatible tracking unit according to claim 1 further comprising a housing containing said vehicle position determining device, said wireless communications device, said multi-vehicle compatible controller, and said downloading interface.

13. A multi-vehicle compatible tracking unit for a vehicle comprising a vehicle data bus extending throughout the vehicle, the multi-vehicle compatible vehicle tracking unit comprising:

a vehicle position determining device;

a wireless communications device;

a multi-vehicle compatible controller for cooperating with said vehicle position determining device and said wireless communications device to send vehicle position information;

said multi-vehicle compatible controller to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles; and

a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller;

said downloading interface comprising a connector for temporary connection to a downloading device.

14. The multi-vehicle compatible tracking unit according to claim 13 wherein the corresponding at least one vehicle code is for reading from the at least one vehicle device.

15. The multi-vehicle compatible tracking unit according to claim 13 wherein the corresponding at least one vehicle code is for writing to the at least one vehicle device.

16. The multi-vehicle compatible tracking unit according to claim 13 wherein said downloading interface is also for permitting downloading of at least one programming instruction for said multi-vehicle compatible controller.

17. The multi-vehicle compatible tracking unit according to claim 13 further comprising a remote transmitter; and wherein said multi-vehicle compatible controller also performs at least one vehicle remote control function responsive to said remote transmitter.

18. A multi-vehicle compatible tracking unit for a vehicle comprising a vehicle data bus extending throughout the vehicle, the multi-vehicle compatible vehicle tracking unit comprising:

a vehicle position determining device;

a wireless communications device;

a multi-vehicle compatible controller for cooperating with said vehicle position determining device and said wireless communications device to send vehicle position information;

said multi-vehicle compatible controller to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles; and

a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller;

said downloading interface comprising a wireless receiver for temporary connection to a downloading device.

19. The multi-vehicle compatible tracking unit according to claim 18 wherein the corresponding at least one vehicle code is for reading from the at least one vehicle device.

20. The multi-vehicle compatible tracking unit according to claim 18 wherein the corresponding at least one vehicle code is for writing to the at least one vehicle device.

21. The multi-vehicle compatible tracking unit according to claim 18 wherein said downloading interface is also for permitting downloading of at least one programming instruction for said multi-vehicle compatible controller.

22. The multi-vehicle compatible tracking unit according to claim 18 further comprising a remote transmitter; and wherein said multi-vehicle compatible controller also performs at least one vehicle remote control function responsive to said remote transmitter.

In Re Patent Application of:
Kenneth E. FLICK
Reexamination Control No. **90/013,851**
Filed: **OCTOBER 29, 2016**
_____/

APPENDIX B - EVIDENCE APPENDIX

In accordance with MPEP §1205.02

While it is no longer a requirement to include an evidence appendix, the Office strongly encourages and appreciates receiving copies of the evidence relied upon (e.g., copies of declarations and affidavits, evidence of secondary considerations, etc.). This ensures that the Board is considering the proper evidence and avoids any confusion as to the particular evidence referenced in the appeal brief. In the alternative, the Board recommends that appellants clearly identify in the appeal brief the evidence relied upon using a clear description of the evidence along with the date of entry of such evidence into the Image File Wrapper.

In Re Patent Application of:
Kenneth E. FLICK
Reexamination Control No. **90/013,851**
Filed: **OCTOBER 29, 2016**
_____/

COURTESY COPIES OF PREVIOUSLY-ADMITTED DECLARATIONS AND EXHIBITS

1. Jury Verdict Judgment from related litigation with Requester (admitted with response filed June 12, 2017)

2. Ruling on JMOL and new trial from related litigation with Requester (admitted with response filed November 29, 2017) [Examiner did not address admission status in latest Advisory Action dated December 5, 2017]

3. Final Order from related litigation with Requester (admitted with response filed June 12, 2017)

4. Executed Rule 132 Declaration of Michael Suman July 5, 2016 (admitted with response filed September 18, 2017)

5. Executed Rule 132 Declaration of Joseph McAlexander July 6, 2016 (admitted with response filed September 18, 2017)

6. Executed Rule 132 Declaration of Joseph McAlexander June 12, 2017 (admitted with response filed June 12, 2017)

7. Final Judgment from related litigation with Requester (admitted with response filed June 12, 2017)

8. Markman Order from related litigation with Requester (admitted with response filed June 12, 2017)

9. Notice of Intent to Issue Ex Parte Reexamination Certificate from Serial No. 90/013,587 of the first reexamination (admitted with response filed September 18, 2017)

ITEM 1

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

OMEGA PATENTS, LLC,

Plaintiff,

v. Case No: 6:13-cv-1950-Orl-40DAB

CALAMP CORP.,

Defendant.
_____/

VERDICT FORM

1. Do you find Omega has proven by a preponderance of the evidence that any of the accused CalAmp devices infringed any of the asserted claims of Omega's asserted Patents?

   ✓ Yes (for Omega) _____No (for CalAmp)

If your answer to Question 1 is "No," proceed to Question 3. If your answer to Question 1 is "Yes," for any claim(s) Omega has proven by a preponderance of the evidence that any of the accused CalAmp devices infringed, indicate a finding of infringement by marking "Yes" in the corresponding space provided in Questions 2.A through 2.D. below; for any claim(s) Omega has failed to prove by a preponderance of the evidence that any of the accused CalAmp devices infringed, indicate a finding of non-infringement by marking "No" in the corresponding space provided in Questions 2.A through 2.D. below.

2.A. U.S. Patent No. 6,346,876 B1 ("the '876 patent")

Has Omega proven by a preponderance of the evidence that any of the accused CalAmp devices infringed any of the following claims of the '876 patent?

	LMU-3000	LMU-3030	LMU-3050	VPOD	VPOD2
Claim 1	☑ Yes ☐ No	☑ Yes ~~☑ No~~	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 3	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 4	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 5	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 12	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 14	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 16	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No

2.B. U.S. Patent No. 6,756,885 B1 ("the '885 patent")

Has Omega proven by a preponderance of the evidence that any of the accused CalAmp devices infringed any of the following claims of the '885 patent?

	LMU-3000	LMU-3030	LMU-3050	VPOD	VPOD2
Claim 1	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 2	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 3	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 12	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 14	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No

2.C. U.S. Patent No. 7,671,727 B2 ("the '727 patent")

Has Omega proven by a preponderance of the evidence that any of the accused CalAmp devices infringed any of the following claims of the '727 patent?

	LMU-3000	LMU-3030	LMU-3050	VPOD	VPOD2
Claim 1	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 10	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 11	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No

2.D. U.S. Patent No. 8,032,278 B2 ("the '278 patent")

Has Omega proven by a preponderance of the evidence that any of the accused CalAmp devices infringed any of the following claims of the '278 patent?

	LMU-3000	LMU-3030	LMU-3050	VPOD	VPOD2
Claim 1	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 2	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 3	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 4	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 5	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 6	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 8	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 11	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No

U.S. Patent No. 8,032,278 B2 ("the '278 patent") continued from previous page

	LMU-3000	LMU-3030	LMU-3050	VPOD	VPOD2
Claim 12	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No		
Claim 13	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 14	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 16	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 18	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 19	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No
Claim 21	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No	☑ Yes ☐ No

After answering Questions 2.A. through 2.D., proceed to Question 3.

3. Has CalAmp proven by clear and convincing evidence that any claim of the asserted Patents is invalid?

_____ Yes (for CalAmp) ___✓___ No (for Omega)

4. If your answer to Question 3 is "No," proceed to Question 5. If your answer to Question 3 is "Yes," answer Question 4 below by indicating with an X any claim(s) you find invalid by clear and convincing evidence and indicate the reasons for invalidity, namely, identify which prior art references disclose the elements of the claim.

PATENT CLAIM	YES, INVALID	REFERENCES DISCLOSING THE ELEMENTS OF THE CLAIM
U.S. Patent No. 6,346,876		
Claim 1		
Claim 3		
Claim 4		
Claim 5		
Claim 12		
Claim 14		
Claim 16		
U.S. Patent No. 6,756,885		
Claim 1		
Claim 2		
Claim 3		
Claim 12		

PATENT CLAIM	YES, INVALID	REFERENCES DISCLOSING THE ELEMENTS OF THE CLAIM
U.S. Patent No. 6,756,885 (continued from previous page)		
Claim 14		
U.S. Patent No. 7,671,727		
Claim 1		
Claim 10		
Claim 11		
U.S. Patent No. 8,032,278		
Claim 1		
Claim 2		
Claim 3		
Claim 4		
Claim 5		
Claim 6		
Claim 8		
Claim 11		
Claim 12		
Claim 13		
Claim 14		
Claim 16		
Claim 18		
Claim 19		
Claim 21		

After answering Question 4, answer Question 5.

5. Which of the following factors that tend to indicate nonobviousness, if any, has been established by the evidence with respect to the claimed invention (write the word "yes" in the blank below to any question that you answer "yes" to):

YES	Were accused products covered by the claim commercially successful due to the merits of the claimed invention rather than due to advertising, promotion, salesmanship, or features of the product other than those found in the claim?
X	Was there long felt need for a solution to the problem facing the inventors, which was satisfied by the claimed invention?
X	Did others try, but fail, to solve the problem solved by the claimed invention?
YES	Did others copy the claimed invention?
X	Did the claimed invention achieve unexpectedly superior results over the closest prior art?
X	Did others in the field praise the claimed invention or express surprise at the making of the claimed invention?
YES	Did others accept licenses under patents because of the merits of the claimed invention?

If your answer to Question 1 is "Yes," answer Question 6.A. If your answer to Question 1 is "No," skip all remaining questions and proceed to sign and date this Verdict Form.

6.A. Has Omega proven by clear and convincing evidence that CalAmp acted despite an objectively high likelihood that its actions infringed a valid patent?

✓ Yes _____ No

If your answer to Question 6.A. is "Yes," proceed to Question 6.B. If your answer to Question 6.A. is "No," proceed to Question 7.

6.B. Has Omega proven by clear and convincing evidence that this objectively high likelihood of infringement was either known or so obvious that it should have been known to CalAmp?

✓ Yes _____ No

Proceed to Question 7.

7. What amount of damages, if any, do you find is adequate to compensate Omega for CalAmp's infringement of any claim found to be valid and not licensed?

$ 2,975,200

After answering Question 7, sign and date this Verdict Form.

SO SAY WE ALL THIS 24th DAY OF FEBRUARY, 2016.

JURY FOREPERSON

ITEM 2

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

OMEGA PATENTS, LLC,

Plaintiff,

v. Case No: 6:13-cv-1950-Orl-40DCI

CALAMP CORP.,

Defendant.
_____/

ORDER

This cause is before the Court on the following:

1. Defendant CalAmp Corporation's Renewed Motion for Judgment as a matter of law and Motion for New Trial, (Doc. 216);
2. Plaintiff Omega Patents, LLC's Response in Opposition, (Doc. 226);
3. CalAmp's Supplemental Motion for Judgment as a Matter of Law, for New Trial, and to Vacate the Judgment, (Doc. 228); and
4. Omega's Response in Opposition to Defendant's Supplemental Motions, (Doc. 228).

Upon due consideration of the foregoing, Defendant CalAmp's Renewed Motions for Judgment as a Matter of Law and for New Trial are denied.[1]

I. BACKGROUND

Omega Patents, LLC ("Omega") brought the instant action against CalAmp Corp.

[1] The supplemental briefing is not necessary to preserve the challenges directed by CalAmp against the Final Judgment, notwithstanding the entry of an Amended Final Judgment. Additionally, the Court has resolved the Motion to Vacate the Judgment for Lack of Venue. (Doc. 230).

("CalAmp") and contends that CalAmp infringed the claims of U.S. Patent No. 6,346,876 ("the '876 Patent"),[2] U.S. Patent No. 6,756,885 ("the '885 Patent"),[3] U.S. Patent No. 7,671,727 ("the '727 Patent"),[4] and U.S. Patent No. 8,032,278 ("the '278 Patent")[5] (collectively, the "patents-in-suit").[6] (Doc. 1). The trial of this matter commenced on February 16, 2016, and concluded on February 24, 2016, (Doc. 178–184), with the jury returning a verdict in favor of Omega in which they found that all of Omega's asserted claims were valid and had been infringed upon by CalAmp's accused devices: the LMU 3000, LMU 3030, LMU 3050, the V-Pod and the V-Pod 2. (Docs. 144, pp. 1–6). The jury rejected Defendant's invalidity contentions and made three findings for Plaintiff on secondary considerations indicating nonobviousness. (*Id.* at pp. 7–9). Finally, the jury found Plaintiff had proven by clear and convincing evidence that CalAmp acted despite an objectively high likelihood that its actions infringed a valid patent and that this high likelihood of infringement was either known or so obvious that it should have been known to CalAmp. (*Id.* at pp. 9–10). The jury awarded damages in the amount of $2,975.200. (*Id.* at p. 10).

II. STANDARDS FOR REVIEW

A. Judgment as a Matter of Law

---

2 The jury found infringement of claims 1, 3, 4, 5, 12, 14, and 16. (Doc. 144, p. 2).
3 The jury found infringement of claims 1, 2, 3, 12, and 14. (Id. at p. 3).
4 The jury found infringement of claims 1, 10, and 11. (Id. at p. 4).
5 The jury found infringement of claims 1–6, 8, 11–16, 18–19, and 21. (Id. at pp. 5–6).
6 The patents-in-suite relate to control systems for vehicles with a "data communication bus." The term "data communication bus" has been previously construed by the Court to mean "wired connection for communication of digital messages among vehicle devises, with each message including one or more device addresses." (Doc. 50, p. 25).

Judgment as a matter of law should only be granted if no objectively reasonable jury, based on the evidence and inferences adduced at trial and through the exercise of impartial judgment, could reach the verdict reached. *Brown v. Ala. Dep't of Transp.*, 597 F.3d 1160, 1173 (11th Cir. 2010); *Combs v. Plantation Patterns*, 106 F.3d 1519, 1526 (11th Cir. 1997). Stated differently, the party moving for judgment as a matter of law must show that the trial evidence "is so overwhelmingly [in its favor] that a reasonable jury could not arrive at a contrary verdict." *Middlebrooks v. Hillcrest Foods, Inc.*, 256 F.3d 1241, 1246 (11th Cir. 2001). However, where there is substantial evidence in the trial record which would allow reasonable minds to reach different conclusions, judgment as a matter of law is inappropriate. *Mee Indus. v. Dow Chem. Co.*, 608 F.3d 1202, 1211 (11th Cir. 2010). In considering a motion for judgment as a matter of law, the district court must review the record and draw all reasonable inferences derived therefrom in the light most favorable to the non-moving party. *Brown*, 597 F.3d at 1173. Importantly, the district court must not make credibility determinations or weigh evidence, as these are functions reserved for the jury. *Id.*

Rule 50 is clear in its procedure. Before a case is submitted to the jury for consideration, a party may move for judgment as a matter of law on any issue which is not supported by legally sufficient evidence. Fed. R. Civ. P. 50(a). If the court denies relief at that time, the party may renew the motion after the jury has returned its verdict. Fed. R. Civ. P. 50(b). It is well-established that "any renewal of a motion for judgment as a matter of law under Rule 50(b) must be based upon the same grounds as the original request for judgment as a matter of law made under Rule 50(a)" and that "a party cannot assert grounds in the renewed motion that it did not raise in the earlier motion." *SEC v.*

Big Apple Consulting USA, Inc., 783 F.3d 786, 813 (11th Cir. 2015). Although "[s]trict identity of issues . . . is not required" of the two motions, the grounds identified in a Rule 50(b) motion must be "closely related" to the grounds raised in the prior Rule 50(a) motion such that opposing counsel and the court are notified of the evidentiary shortcomings asserted. *Howard v. Walgreen Co.*, 605 F.3d 1239, 1243 (11th Cir. 2010). This procedural safeguard "protects the non-moving party's right to cure deficiencies in the evidence before the case is submitted to the jury" and ensures that "[t]he moving party cannot ambush the court and opposing counsel after the verdict when the only remedy is a completely new trial." *Middlebrooks*, 256 F.3d at 1245.

B. New Trial

A district court may grant a new trial for a variety of reasons, including when the verdict is against the great weight of the evidence, the damages awarded by the jury are excessive, the court erred in admitting or excluding evidence or in instructing the jury on the law, or other circumstances resulted in a patently unfair trial. Fed. R. Civ. P. 59; *Montgomery Ward & Co. v. Duncan*, 311 U.S. 243, 251 (1940). Whatever its reason, "a district court may, in its discretion, grant a new trial 'if in [the court's] opinion, the verdict . . . will result in a miscarriage of justice, even though there may be substantial evidence'" which would preclude the entry of judgment as a matter of law. *McGinnis v. Am. Home Mortg. Servicing, Inc.*, 817 F.3d 1241, 1254 (11th Cir. 2016) (quoting *Hewitt v. B.F. Goodrich Co.*, 732 F.2d 1554, 1556 (11th Cir. 1984)). Unlike a motion for judgment as a matter of law made pursuant to Rule 50, the court "is free to weigh the evidence" in assessing whether to grant a new trial under Rule 59. *Id.* (quoting *Rabun v. Kimberly-Clark Corp.*, 678 F.2d 1053, 1060 (11th Cir. 1982)).

III. CALAMP'S JMOL ARGUMENTS AT TRIAL

At the conclusion of Omega's case-in-chief, CalAmp moved for judgment as a matter of law. (Doc. 182). CalAmp argued the evidence was insufficient to establish infringement, contending that Mr. McAlexander failed to address what control functions were being performed with respect to the '876 patent. (*Id.* at 3:23 to 4:2). CalAmp also argued that Omega's expert did not establish "they were actually generating the working and non-working command signals." (*Id.* at 4:10–12). As to the '876 and '885 patent, CalAmp claimed Plaintiff satisfied the "transmitter requirement" based on the CalAmp server, which they contend is a deviation from Mr. McAlexander's expert report where he "relied on the chip set on the device having both the transmitter and the receiver." (*Id.* at 4:14–23). Moreover, CalAmp argued the Court defined device codes "as being signals from a vehicle device," and Omega presented testimony that "[i]t was coming from the LMU and going onto the vehicle bus." (*Id.* at 5:8–14).

As to the '278 patent, CalAmp averred that Omega's expert "didn't show any control function the LMU was actually performing onto the bus." (*Id.* at 5:17–19). CalAmp elaborated that "the claim required a corresponding vehicle device code from among a plurality thereof for different vehicle, and he [McAlexander] was using different constructions. (*Id.* at 5:20–23). With regard to the '727 patent, Defendant submitted that Omega's expert testified to a "new theory of infringement that using GPS speed could now satisfy the claim limitation . . . [and] [w]e saw he was relying on speed from the vehicle bus" in his report. (*Id.* at 6:4–13).

On the issue of indirect infringement, CalAmp claimed Omega failed "to provide sufficient evidence of indirect infringement, [because] [t]here was no testimony about an

intent to infringe that's required for indirect infringement. And there was no testimony that—of an actual customer that he determined actually infringed." (*Id.* at 6:15–19). CalAmp next offered that Omega failed to provide sufficient evidence to support willful infringement. (*Id.* at 6:23–24). Finally, CalAmp argued the damages evidence was insufficient. (*Id.* at 9:17–18).

Following the close of the defense case, CalAmp renewed its motion for judgment as a matter of law "[f]or the same reasons, so nothing [is new] there." (Doc. 183, 221:10–13). CalAmp also argued that Omega failed to provide evidence sufficient to overcome the defense of obviousness for all four patents. (*Id.* at 221:15–19). The defense concluded by restating their claim that Omega failed to prove willfulness. (*Id.* at 222:3–9). These are the only grounds preserved for consideration by this Court at this juncture.

IV. CALAMP'S JMOL ARGUMENTS

A. The Verdict Form

CalAmp advocates that "[a]n overreaching issue on noninfringement is the fact that the verdict for asked only about, and the jury therefore could find only, direct infringement under 35 U.S.C. § 271(a)." (Doc. 216, p. 3). Since the claims of the '876 and '885 patents require "a transmitter and a receiver for receiving signals from said transmitter," CalAmp contends infringement is only possible if the jury found the infringing product was "the LMU in combination with other components such as a server." (*Id.* at pp. 3–4). Accordingly, CalAmp submits the verdict form can only sustain direct infringement. (*Id.* at p. 3).

Absent from CalAmp's argument, however, is that the Court used the verdict form submitted by the Defendant. (Doc. 90-11). CalAmp's verdict form poses the following

question: "Do you find Omega has proven by a preponderance of the evidence that any of the accused CalAmp devices infringed any of the following claims of the Plaintiff's asserted Patents?" (*Id.* at p. 3). The verdict form proffered by Omega, however, asked: "Do you find by a preponderance of the evidence that Defendant infringed any of the following claims of Plaintiff's Patents?" (Doc. 90-10, p. 2).

CalAmp was well aware that indirect infringement was before the jury along with direct infringement, because CalAmp argued for judgment as a matter of law ("JMOL") on indirect infringement. (Doc. 182, 6:15–19). Yet, CalAmp offered, and the Court accepted, the verdict form which CalAmp now characterizes as fatally flawed. As Omega correctly observes in their response, to the extent the verdict form is lacking CalAmp invited the error by crafting that very verdict form.[7] *See Slip-N-Slide Records, Inc. v. TVT Records, LLC*, 2007 U.S. Dist. LEXIS 80788 (S.D. Fla. Oct. 31, 2007) (party's attack on verdict form is barred by invited error doctrine where that party failed to object to the verdict form). CalAmp cannot create the verdict form with full knowledge that indirect infringement had been presented to the jury and later complain that their form is deficient. Additionally, CalAmp failed to raise any objection to the verdict form during either of their arguments for judgment as a matter of law at trial and have waived this issue.[8]

B. The '876 and '885 Patents

CalAmp suggests that the '876 and '885 patents are not infringed, because the "accused products are not 'at the vehicle' when CalAmp makes, uses or sells them. (Doc.

---

[7] Questions 6A and 6B of the verdict form ask the jury to address CalAmp's actions, as opposed to the device.

[8] The Court discussed indirect infringement (inducement) with the parties during the charge conference. (Doc. 183, 23:10–16). The inducement instruction was given. (Doc. 143, p. 15).

216, p. 5). Since the '876 patent requires the multi-vehicle compatible controller ("MVCC") to be "at the vehicle," direct infringement fails. (*Id.*). CalAmp did not make this argument at either JMOL motion hearing during the course of the trial and has waived this issue. Additionally, the Plaintiff's theory was not limited to direct infringement, as discussed previously in this Order.

Next, CalAmp contends the '885 patent requires the MVCC to cooperate with the transmitter and receiver and avers that the devices are not cooperating with a RF transmitter and receiver until they are turned on. (*Id.*). This is an example of yet another argument that was not advanced during either JMOL hearing at trial. Regardless, Omega is correct that the testimony at trial established the "accused devices had a transmitter and receiver that are used to transmit and receive," and CalAmp's PULS server transmits scripts and updates directly from CalAmp to the accused devices via a cellular network. (Doc. 226, p. 3).[9] This is adequate to support infringement.

CalAmp asserts that Mr. McAlexander "tried to inject a new theory at trial by pointing to 'a transmitter receiver that's associated with a server that receives and communicates with it' in combination with the accused devices." (Doc. 216, p. 4). While Omega disagrees with this characterization of Mr. McAlexander's testimony, the point raised by CalAmp is not relevant. That is, the party moving for judgment as a matter of law must show that the trial evidence "is so overwhelmingly [in its favor] that a reasonable jury could not arrive at a contrary verdict." *Middlebrooks v. Hillcrest Foods, Inc.*, *supra*. CalAmp's argument is not that the evidence presented by Omega on this issue was

[9] Omega cites the testimony and exhibits supporting this statement, and the Court will not repeat the record citations here.

deficient, but rather that Mr. McAlexander allegedly injected a new theory at trial. Assuming CalAmp is correct that Plaintiff's expert modified the opinion set forth in his report, CalAmp's objection is to the introduction of a "new theory." An evidentiary objection does not equate with a lack of sufficient evidence to support the jury's verdict which is all the JMOL analysis concerns.

C. The Device Codes Limitation

The next argument advanced by Defendant is that all asserted claims of the '278 and '885 patents and claim 12 of the '876 patent have requirements for "device codes" which is a signal "from" a vehicle bus. (Doc. 216, p. 5). CalAmp acknowledges that Omega's expert testified that "the query sent by the LMU as part of the bus discovery process." (*Id.* at p. 6). In fact, Mr. McAlexander testified that the LMU device is a controller that is multi-vehicle compatible. (Doc. 180, 78:19–21). Defendant's witness, Mr. Chen, acknowledge that the LMU devices are able to read the device codes from the bus and match them with look-up tables. Accordingly, the jury was presented with sufficient evidence to sustain their finding of infringement.

D. Determining a Match Between Read and Stored Codes

CalAmp claims the asserted claims of the '885 patent, and claim 12 of the '876 patent, require "storing a set of device codes for a given vehicle device for a plurality of different vehicles," "reading a device code from the data communications bus," and "determining a match between a read device code and the stored device codes." (Doc. 216, pp. 6–7). The Defendant failed to raise this issue during either of their JMOL arguments. Mr. McAlexander was asked by Plaintiff's counsel if he found that the MVCC "is for reading a device code from the data communications bus and for determining a

match between a read device code and the stored device codes to thereby provide reading compatibility with a plurality of different vehicles?" (Doc. 180, 77:11–16). Mr. McAlexander replied:

> Yes, I did. One of the unique aspects of this type of a system is the fact that you send out a sequence of codes, and only the code which is understood by some downstream vehicle device on the vehicle bus is going to respond. And so, it's called a working command. When you get that working signal provides a response, that's a match.

(*Id.* at 77:17–23). The fact that CalAmp's expert disputes that a match is performed does not warrant judgment as a matter of law in favor of CalAmp.

E. Reading and Using Vehicle Speed from the Bus

In its JMOL argument, CalAmp contended that Omega's expert testified to a "new theory of infringement that using GPS speed could now satisfy the claim limitation." (Doc. 182, 6:4–13). As previously discussed, an objection to the propriety of offering an allegedly new opinion does not meet the standard for judgment as a matter of law. CalAmp elaborates upon their earlier argument by explaining that "the default speed above threshold functions uses only GPS speed, [hence] the accused products do not necessarily infringe." (Doc. 216, p. 9). CalAmp therefore concludes it "could be liable only under an indirect infringement theory, but the jury was not asked to and did not find that CalAmp induced or contributed to another's direct infringement," harkening back to their earlier objection to the verdict form that they had offered for use at trial. (*Id.* at p. 10). CalAmp argues they are entitled to a new trial because it is impossible to know if the verdict was based on Mr. McAlexander's incorrect claim construction theory. (*Id.*).

First, CalAmp cannot complain that their own verdict form has complicated matters in terms of direct and indirect infringement. Second, juries are routinely confronted with

competing legal theories, and a new trial is not warranted simply because the losing party cannot discern why the jury found as they did. In the instant case, the verdict form prepared by CalAmp allowed the jury to indicate which claims of each patent had been infringed. The jury concluded the '727 patent (speed from the vehicle data communication bus) had been infringed. (Doc. 144, p. 4). Lastly, CalAmp's engineer, Mr. Jeffrey Eiberger, testified that 5% of CalAmp's customers used bus speed for speed exceedances. (Doc. 147, 78:14–20). This is sufficient to support the finding of direct and indirect infringement.

F. Command Signals and Controller

CalAmp asserts that its products "merely request and receive data" and "do not infringe because they do not send signals to operate a vehicle device." (Doc. 216, p. 11). However, in the Claim Construction Order, this Court observed:

> Since the system is designed to operate with a variety of vehicle platforms, not every signal generated on the data communications bus will cause a function to be performed . . . . Accordingly, CalAmp's proposed construction incorrectly includes within the definition of the "command signal" the requirement that a signal generated on the data communication bus must always cause a desired function to be performed.

(Doc. 50, p. 15). Besides, Mr. McAlexander testified that the LMU meets this definition. (Doc. 180, 66:16 to 69:15). Defense expert, Mr. Eric Andrews, ignores the Court's construction by inserting into the claim the requirement that the command function have a physical embodiment. (Doc. 183, 117:22–25; 118:1–12). Mr. Andrews admitted that a command signal need not result in a physical manifestation, when he acknowledged that an ECU responding with a device code signal is responding to a command signal. (*Id.* at 118:17–24). CalAmp's argument for JMOL disregards this testimony.

G. Patents-in-Suit is Invalid as Obvious

Judgment as a matter of law should only be granted if no objectively reasonable jury, based on the evidence and inferences adduced at trial and through the exercise of impartial judgment, could reach the verdict reached. *Brown v. Ala. Dep't of Transp.*, *supra.* CalAmp argued at trial and in their JMOL that "a person of ordinary skill would have looked to the J1978 standard to solve the problem of multi-vehicle compatibility (and thus combine the references)." (Doc. 216, pp. 12–13). The J1978 standard relates to a scan tool and, notwithstanding Mr. Andrews failure to articulate why one would have combined an SAE standard pertaining to scan tools with the referenced prior art, CalAmp contends "it is self-evident why one of ordinary skill would do so." (*Id.* at p. 14).

CalAmp is required to prove by clear and convincing evidence that one of ordinary skill in the art would be motivated to combine the references provided by the Defendant. *Innogenetics, N.V. v. Abbott Labs.*, 512 F.3d 1363, 1373 (Fed. Cir. 2008). The jury rejected Mr. Andrew's argument that one would have—without relying on the benefit of hindsight—combined the prior art with the SAE specification. (Doc. 144, p. 7). Based upon the quality of Mr. Andrew's testimony, an objectively reasonable jury could have reached this verdict.

H. Secondary Considerations

"The jury found three secondary considerations of nonobviousness—commercial success, copying, and licensing by others. Dkt. 144 at 9" (Doc. 216, p. 15). While this precise argument was not presented at either JMOL hearing, it is sufficiently tied to the issue of obviousness to warrant further examination. CalAmp contends Omega failed to

sufficiently demonstrate a nexus between the claimed invention and the secondary considerations. (*Id.*).

Plaintiff, in its response to this assertion, summarizes ample evidence presented at trial which rebuts CalAmp's claim that the secondary considerations are unsupported. (Doc. 226, pp. 10–11). Plaintiff observes that Defendant's corporate representative and employees testified that the infringing products (and DEI's product) were "commercially successful due to the merits of Omega's invention." (*Id.* at p. 10). Witnesses testified that features on the infringing CalAmp products were requested by customers. (*Id.*). Additionally, Mr. Flick sold devices with the patented features, generating sales revenue of $33 million annually. (*Id.*). Moreover, the jury heard testimony that Mr. Flick, via his company, issued dozens of licenses to the patents-in-suit and entered into settlement agreements with infringers. (*Id.*). Finally, Omega presented evidence that CalAmp knew of Omega's patents and discussed the difficulty of designing around the patents. (*Id.* at p. 11). This testimony was sufficient for an objectively reasonable jury to find the secondary considerations.

I. Willfulness

Defendant argues that no reasonable jury could have found willfulness. (Doc. 216, p. 22). In partial support for this premise, CalAmp states it relied upon counsel's legal opinion that the '885, '876 and '727 patents were invalid and their products would not infringe. (*Id.* at p. 18). However, the advice of counsel was not allowed into evidence, and CalAmp now contends this warrants JMOL on willfulness and a new trial. (*Id.*). As previously observed in this Order, CalAmp confuses JMOL, which questions the sufficiency of the evidence presented by the non-moving party, with a motion for new trial

due to an evidentiary error. In the interest of completeness, the Court will address its evidentiary ruling before turning to the weight of the evidence presented by Omega.[10]

Counsel for CalAmp asked Mr. Chen, senior director of business development in CalAmp's corporate development group,[11] if he had received written and oral opinions by legal counsel regarding the validity of the patents-in-suit. (Doc. 182, 116:6-23). When asked to state the content of the oral opinion provided by counsel regarding whether the LMU-3000 infringed the '885 patent, counsel for Omega objected to the hearsay testimony elicited by the question. (*Id.* at 116:21–25; 117:1). Because the legal opinion was being offered for the truth of the matter, the Court sustained the objection. (*Id.* at 117:5).

Following the lunch recess, the Court discussed the opinion letter of Mr. David Bailey, exhibits 71 and 73, in which he opines that the '876 and '883 patents are invalid due to obviousness. (*Id.* at 119:15–24). After discussing the content of the opinion letters, the Court concluded the opinions are offered for their truth and do not fall within an exception to hearsay. (*Id.* at 120:16 to 124:24). Having found the opinion letter to be hearsay, the Court advised CalAmp that the attorney who authored the opinions, if properly disclosed on CalAmp's witness list, could testify that he gave an opinion that the two patents were invalid. (*Id.* at 124:19–24). While CalAmp did not disclose Mr. Bailey as a witness, and even though Omega objected to the witness testifying, the Court allowed Mr. Bailey to testify that the CalAmp devices did not infringe the '876 and '883 patents. (*Id.* at 125:3–16).

---

[10] For the reasons expressed herein, CalAmp's motion for new trial on willfulness (Doc. 216, p. 29) is denied.

[11] *See* Doc. 182, 38:24–25; 39:1.

When the jury returned, Mr. Chen identified the opinion letters and testified that he relied upon them along with his independent research of the prior art. (*Id.* at 127:18–25; 128:1–9). Mr. Bailey testified immediately following Mr. Chen, and he acknowledged giving opinions to CalAmp relating to the four patents in this lawsuit in which he opines the '727 and '278 are invalid. (*Id.* at 150:22–25 through 157:7). At the conclusion of his testimony, CalAmp offered the two opinion letters, Omega objected, and the objection was sustained. (*Id.* at 159:9–13). The next witness was Mr. Andrews, CalAmp's expert on invalidity and noninfringement. Accordingly, CalAmp was permitted to present extensive testimony by Mr. Chen regarding his investigation of the prior art and his reliance upon Mr. Bailey's legal opinions (notwithstanding the failure to list Mr. Bailey as a witness). Mr. Bailey thereafter testified that he advised Mr. Chen the '727 and '278 were invalid, and Mr. Andrews testified that none of the CalAmp devices infringe. CalAmp's defense as to willfulness was presented and was rejected by the jury.

This Court has already summarized the evidence supporting a finding of willfulness, (Doc. 206), in its award of enhanced damages. The facts, exhibits and record citations cited in the Court's previous order at pages 7–12 are incorporated by reference herein for brevity's sake. Omega details the facts presented at trial which support a finding of willfulness, including the 2009 meeting between Mr. Flick and CalAmp's representatives where Mr. Flick told CalAmp they were infringing his patents. (Doc. 226, p. 11). As a result, Mr. Chen requested a license agreement which he later declined to execute. (*Id.*). The jury also heard that two end users of CalAmp's infringing devices settled with Omega and entered into licensing agreements. (*Id.* at 12). The jury also learned on cross-examination that Mr. Chen lacked any contemporaneous

documentation to support his claim to having conducted an exhaustive analysis of Omega's patents and prior art. (*Id.*). Moreover, while Mr. Chen testified that the LMU speed data is never derived from the vehicle bus, CalAmp's engineer testified that some customers' units read speed from the bus. (*Id.* at 13). Perhaps most telling is the email sent by Mr. Chen to a CalAmp vice president shortly before the lawsuit was initiated wherein Mr. Chen stated Claim 13 of the '278 patent "may relate to how we program a unit at the factory so it may be harder to avoid." (*Id.*).

These facts, and the reasonable inferences to be drawn from the facts, were sufficient for a reasonable jury to find willfulness.

J. ENHANCED DAMAGES and ATTORNEYS' FEES

CalAmp argues the Court should not exercise its discretion to enhance the damages and award attorneys' fees in this case. The Court addressed these issues previously, and none of the arguments advanced by CalAmp warrant a different outcome. (*see* Doc. 206). Omega's opposition to CalAmp's motion is detailed, and the Court agrees with the arguments advanced by Plaintiff. For the reasons stated in this Order, and based upon the Court's analysis at docket number 206, CalAmp's motion to alter its judgment to disallow enhanced damages and attorneys' fees is denied.

V. NEW TRIAL ON DAMAGES

CalAmp seeks a new trial on the issue of damages to the extent the Court overturns the verdict with respect to infringement or validity. Having denied the Defendant's motion for judgment as a matter of law on these issues, the motion for new trial on the issue of damages is denied.

CalAmp also seeks a new trial on damages on the basis that the Court erred when it excluded Dr. DeForest McDuff. (Doc. 216, p. 27). CalAmp also argues the Court should have permitted Dr. McDuff to testify to his opinion that the license agreements relied on by Omega were not comparable to the license that would result from the hypothetical negotiation in this case. (*Id.*). Additionally, CalAmp contends the non-comparable license agreements relied upon by Mr. Tregillis (Omega's expert) were admitted in error. (*Id.*).

The Court excluded Dr. McDuff based upon the unreliability of his methodology. (Doc. 117, pp. 18–27). CalAmp did not seek reconsideration of the Court's Order to allow Dr. McDuff to testify that the license agreements relied upon by Omega were not comparable to those that would result from a hypothetical negotiation in this case, presumably because the Court found Dr. McDuff to have formulated unreliable opinions using improper methodologies. To the extent CalAmp may have asserted an objection to the Court's Order excluding Dr. McDuff as a damages witness, that objection has been waived. To the extent CalAmp submits Mr. Tregillis failed to cite comparable license agreements, this was an issue for the jury to resolve. As Omega correctly notes, Mr. Tregillis was subjected to extensive cross-examination on whether the licenses he selected were in fact comparable, and the jury was instructed on what constitutes a comparable license—without objection. The Defendant's motion for new trial on damages is denied.

Next, CalAmp asserts a new trial is warranted due to erroneous claim construction rulings. Defendant basis its motion upon the conclusion that the Court erred in not accepting some of its proffered claim constructions. Defendant did not seek additional

construction of any disputed claim during the trial. Hence, the motion is denied. *Weinar v. Rollform, Inc.*, 744 F.2d 797, 809 (Fed. Cir. 1984).

In a catch-all summary of alleged errors, CalAmp seeks a new trial due to the alleged plethora of evidentiary missteps by the Court during trial, including the closing argument of Omega's counsel to which there was no objection. CalAmp fails to demonstrate how any of the perceived errors individually or collectively warrant a new trial, and the motion is denied.

VI. CONCLUSION

The verdict rendered by the jury was not against the greater weight of the evidence. To the contrary, an objectively reasonable jury could, and did, conclude that CalAmp had infringed Omega's patent-in-suit and had done so willfully. Defendant's Motions for Judgment as a Matter of Law and for New Trial, (Doc. 216) are **DENIED**; and Defendant's Supplemental Renewed Motion for Judgment as a Matter of Law, for a New Trial, and to Vacate the Judgment (Doc. 228) is **DENIED**.

DONE AND ORDERED in Orlando, Florida on November 14, 2017.

PAUL G. BYRON
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties

ITEM 3

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

OMEGA PATENTS, LLC,

Plaintiff,

v. Case No: 6:13-cv-1950-Orl-40DCI

CALAMP CORP.,

Defendant.
_____/

ORDER

This cause is before the Court on the following:

1. Plaintiff's Motion for Entry of Final Judgment, Including Entitlement to Attorneys' Fees, Enhanced Damages, and Entry of a Permanent Injunction (Doc. 148), filed March 9, 2016;
2. Plaintiff's Renewed Motion to Award Prejudgment Interest (Doc. 154) filed March 18, 2016;
3. Defendant's Response in Opposition to Plaintiff's Renewed Motion to Award Prejudgment Interest (Doc. 166), filed April 4, 2016;
4. Defendant's Opposition to Plaintiff's Motion for Entry of Final Judgment, Including Entitlement to Attorneys' Fees, Enhanced Damages, and Entry of a Permanent Injunction (Docs. 169, 170), filed April 11, 2016;
5. Plaintiff's Notice of Filing Declarations (Doc. 187), filed April 28, 2016;
6. Defendant's Notice of Filing Responsive Declarations (Doc. 188), filed April 29, 2016;

7. Defendant's Notice of Supplemental Authority regarding Response in Opposition to Plaintiff's Motion for Entry of Final Judgment (Doc. 192), filed May 17, 2016;
8. Defendant's Notice of Grant of Reexamination of '885 Patent (Doc. 193), filed June 6, 2016;
9. Plaintiff's Notice of Supplemental Authority (Doc. 194), filed June 13, 2016;
10. Defendant's Response to Plaintiff's Notice of Supplemental Authority (Doc. 195), filed June 14, 2016;
11. Plaintiff's Response to Defendant's Notice of Supplemental Authority at Docket Number 192 (Doc. 198), filed July 19, 2016;
12. Defendant's Reply to Plaintiff's Response to Notice of Supplemental Authority (Doc. 199), filed July 22, 2016;
13. Defendant's Notice of Grant of Supplemental Authority (Patent Office Action) (Docs. 200, 201), filed August 30, 2016; and
14. Defendant's Notice of Supplemental Authority (Patent Office Action) (Doc. 202), filed September 19, 2016.

Upon due consideration, and after reviewing the pleadings and the transcript of the trial (Doc. 178–184) and the transcript of the post-trial motion's hearing (Doc. 196), Plaintiff's Motions for Entry of Final Judgement, Enhanced Damages, and Reasonable Attorneys' Fees are granted, and Plaintiff's motions for Permanent Injunction is denied.

I. BACKGROUND

Omega Patents, LLC ("Omega") brought the instant action against CalAmp Corp. ("CalAmp") and contends that CalAmp infringed the claims of U.S. Patent No. 6,346,876

("the '876 Patent")[1], U.S. Patent No. 6,756,885 ("the '885 Patent")[2], U.S. Patent No. 7,671,727 ("the '727 Patent")[3], and U.S. Patent No. 8,032,278 ("the '278 Patent")[4] (collectively, the "patents-in-suit").[5] (Doc. 1). The trial of this matter commenced on February 16, 2016, and concluding on February 24, 2016, (Doc. 178–184), with the jury returning a verdict in favor of Omega in which they found that all of Omega's asserted claims were valid and had been infringed upon by CalAmp's accused devices: the LMU 3000, LMU 3030, LMU 3050, the V-Pod and the V-Pod 2. (Doc. 144, p. 1–6). The jury rejected the Defendant's invalidity contentions and made three findings for Plaintiff on secondary considerations indicating nonobviousness. (*Id.* at pp. 7–9). Finally, the jury found Plaintiff had proven by clear and convincing evidence that CalAmp acted despite an objectively high likelihood that its actions infringed a valid patent and that this high likelihood of infringement was either known or so obvious that it should have been known to CalAmp. (*Id.* at pp. 9–10). The jury awarded damages in the amount of $2,975.200. (*Id.* at p. 10).

Omega contends the Court should award reasonable attorneys' fees pursuant to 35 U.S.C. § 285, enhanced damages pursuant to § 284, and a permanent injunction pursuant to § 283. (Doc. 148). CalAmp opposes the relief requested by Omega. (Doc. 169). The Court held oral argument on the post-trial motions on May 2, 2016. (Doc. 196).

---

[1] The jury found infringement of claims 1, 3, 4, 5, 12, 14, and 16. (Doc. 144, p. 2).
[2] The jury found infringement of claims 1, 2, 3, 12, and 14. (*Id.* at p. 3).
[3] The jury found infringement of claims 1, 10, and 11. (*Id.* at p. 4).
[4] The jury found infringement of claims 1–6, 8, 11–16, 18–19, and 21. (*Id.* at pp. 5–6).
[5] The patents-in-suite relate to control systems for vehicles with a "data communication bus." The term "data communication bus" has been previously construed by the Court to mean "wired connection for communication of digital messages among vehicle devises, with each message including one or more device addresses." (Doc. 50, p. 25).

The parties subsequently submitted numerous pleadings consisting of supplemental authority and notices of *ex parte* reexamination by The Patent Office of the '278 patent, the '885 patent, and the '876 patent. (Docs. 198–202).

II. STANDARD

A. Enhanced Damages

When this litigation proceeded to trial, the issue of enhanced damages was governed by the two-step inquiry announced by the Federal Circuit in *In re Seagate Tech., LLC*, 497 F.3d 1360, 1371 (Fed. Cir. 2007) (*en banc*). Following oral argument on Omega's motion for enhanced damages, the United States Supreme Court decided *Halo Elecs., Inc. v. Pulse Elecs., Inc.*, 136 S. Ct. 1923 (2016). The Court in *Halo* rejects the *Seagate* two-part test for determining when a district court my increase damages pursuant to 35 U.S.C. § 284 as being inconsistent with the plain language of the statute. *Halo*, 136 S. Ct. at 1928. Following a historical exegesis of enhanced damages under the Patent Act, the Court concluded that "although there is 'no precise rule or formula' for awarding damages under § 284, a district court's 'discretion should be exercised in light of the considerations' underlying the grant of that discretion." *Halo*, 136 S. Ct. at 1932 (quoting *Octane Fitness, LLC v. ICON Health & Fitness, Inc.*, 134 S. Ct. 1749, 1756 (2014)).

The Court in *Halo* remarked that enhanced damages under patent law "should generally be reserved for egregious cases typified by willful misconduct." *Halo*, 136 S. Ct. at 1934. The Court observed that "[t]he sort of conduct warranting enhanced damages has been variously described in our cases as willful, wanton, malicious, bad-faith, deliberate, consciously wrongful, flagrant, or—indeed—characteristic of a pirate." *Halo*,

136 S. Ct. at 1932. The Court rejected the heightened standard of proof provided for by the Federal Circuit in *Seagate* in favor of a preponderance of the evidence standard. *Halo*, 136 S. Ct. at 1934. The type of culpability that supports an award of enhanced damages is "measured against the knowledge of the actor at the time of the challenged conduct." *Halo*, 136 S. Ct. at 1933.[6] Once a jury determines that an infringer "is guilty of conduct upon which increased damages may be based [,] ... the court then determines, exercising its sound discretion, whether, and to what extent, to increase the damages award given the totality of the circumstances." *Jurgens v. CBK, Ltd.*, 80 F.3d 1566, 1570 (Fed. Cir. 1996). While a finding of willful infringement does not mandate the imposition of enhanced damages, once the finding is made "the court must explain its reasons for declining to award enhanced damages." *Carnegie Mellon Univ. v. Marvell Tech. Group, Ltd.*, No. CIV.A. 09-290, 2014 WL 1320154, at *9 (W.D. Pa. Mar. 31, 2014), *rev'd in part on other grounds*, 807 F.3d 1283 (Fed. Cir. 2015).

B. Attorney's Fees

The Supreme Court in *Octane Fitness* rejected the "more rigid and mechanical formulation" for determining when the district court may award reasonable attorney fees to the prevailing party in favor of the plain statutory text of § 285, which provides "[t]he court in exceptional cases may award reasonable attorney fees to the prevailing party." 35 U.S.C. § 285; *Octane Fitness*, 134 S. Ct. at 1755. An exceptional case is "simply one that stands out from others with respect to the substantive strength of a party's litigating

[6] The Court in *Halo* criticized, in pertinent part, the second prong of the *Seagate* test which allowed an infringer to escape enhanced damages by mustering a defense of invalidity or noninfringement at trial "even if [the infringer] did not act on the basis of the defense or was even aware of it." *Halo Elecs., Inc. v. Pulse Elecs., Inc.*, 136 S. Ct. 1923, 1933 (2016).

position (considering both the governing law and the facts of the case) or the unreasonable manner in which the case was litigated." *Octane Fitness*, 134 S. Ct. at 1756. The district court applies the preponderance of the evidence standard and considers the totality of the circumstances. The district court may consider a number of factors in determining whether to award fees, including: (1) whether the infringer deliberately copied the invention; (2) whether the infringer had a good faith basis for believing it did not infringe or that the patent was invalid; (3) the closeness of the case; (4) conduct of the part in litigation; (5) defendant's relative size and financial condition; (6) the duration of the infringement; (7) remedial action by the defendant; (8) defendant's motivation for harm, and (9) whether defendant attempted to conceal its misconduct. *Read Corp. v. Portec, Inc.*, 970 F.2d 816, 827 (Fed. Cir. 1992).[7]

C. Permanent Injunction

The Supreme Court in *eBay Inc. v. MercExchange, L.L.C.*, 126 S. Ct. 1837, 1839 (2006), held that to obtain an injunction a party "must demonstrate: (1) that is has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest wound not be disserved by a permanent injunction." The Federal Circuit subsequently held that *eBay* eliminates a presumption of irreparable injury to the patent holder after a judgment of infringement and of no invalidity is returned. *Robert Bosch LLC v. Pylon Mfg. Corp.*, 659 F.3d 1142, 1149 (Fed. Cir. 2011). Moreover, there must be a

[7] The *Read* factors are equally applicable to the assessment of enhanced damages.

causal nexus between the irreparable injury and the patent infringement. *Apple Inc. v. Samsung Elecs. Co.*, 735 F.3d 1352, 1360 (Fed. Cir. 2013).

III. DISCUSSION

Mr. Flick, the inventor of the four patents at issue, met with representatives of CalAmp, including Mr. Gallin Chen, in 2009 at a trade show to discuss Omega's belief that CalAmp was infringing certain patents. (Doc. 179, 76:10-18). During this initial meeting, Mr. Chen expressed his view that the Omega patents were invalid, but he nonetheless requested a draft license agreement. (*Id.* at 78:1-11). Omega complied and sent CalAmp a license agreement that CalAmp rejected shortly thereafter, resulting in Omega filing suit against CalAmp on December 15, 2009.[8] (*Id.*). Once litigation had commenced, Mr. Chen agreed to meet with Mr. Flick again at a trade show scheduled for January 2010. (*Id.* at 81:14-18). During the ensuing conversation, Mr. Chen represented to Omega that CalAmp did not program their products and any alleged infringement was caused by the end-user who programs the CalAmp devices. (*Id.* at 81:24– 82:13). Based upon this representation Mr. Flick stayed the litigation against CalAmp and sued two end users: Numerex and Sky Patrol. (*Id.*). Numerex quickly settled with Omega and entered into a licensing agreement. (*Id.* at 82:14-23). Sky Patrol, however, revealed that, contrary to Mr. Chen's representation, CalAmp was responsible for programing their offending devices.[9] (*Id.* at 83:11–84:12). CalAmp subsequently settled with Omega and agreed to pay a royalty. (*Id.* at 84:13-21; Pl.'s Ex. 45).

---

[8] The lawsuit filed by Omega in 2009 pertained to patents other than those at issue in the instant litigation.

[9] The deposition of CalAmp engineer, Peter Hergesheimer, was played at trial, and Mr. Hergesheimer acknowledged that CalAmp programs LMUs for approximately 75% of their customers, contradicting Mr. Chen's claim that CalAmp sold a black box. Mr.

Against this backdrop, CalAmp introduced the accused devices in late 2011 or early 2012. (Doc. 182, 53:2-5). Prior to introducing the accused products, CalAmp's counsel, Mr. David Bailey, reviewed a number of patents held by the Plaintiff, including the '885 and '727 patents at issue in this litigation. (Pl.'s Ex. 39). At the same time counsel for Omega and for CalAmp engaged in discussions concerning Omega's "extensive patent portfolio" in the area of databus applications.[10] (Pl.'s Ex. 34). It is, therefore, beyond dispute that CalAmp was fully aware of the Omega patents prior to introducing the accused products into the market.

Mr. Chen admitted on cross-examination that the LMUs and V-Pod and V-Pod2 were introduced as a direct result of consumer demand. (Doc. 182, 142:11-24). Mr. Chen explained that the LMUs connect to the vehicle data bus and read data from the bus. (*Id.* at 54:8-14). According to Mr. Chen, the LMU has a transmitter and a receiver, can read data from the vehicle data bus, can query a vehicle device for data, and can store the data received in response to the query. (*Id.* at 129:1-21). The '727 patent held by Omega, for example, claims a speed exceeded notification device for a vehicle comprising a "vehicle data communications bus" and "at least one vehicle device generating data related to vehicle speed on the" bus which determines when a vehicle's speed has exceeded a set threshold. (Joint Ex. 4, column 7, lines 4-17).

In an attempt to distinguish the LMU devices from the '727 patent, Mr. Chen testified that the LMU speed data is derived from the GPS module and not from the vehicle

---

Hergesheimer also testified that software is loaded on the LMU online, because that is more cost effective than loading it at the time of manufacture.

[10] CalAmp engineer, Peter Hergesheimer, testified at trial via deposition that he did not design around the Omega patents.

bus.[11] (Doc. 182, 133:13-21). He added that the LMU has the capacity to read speed from the bus, but CalAmp does not allow this because speed data generated from GPS is more accurate. (*Id.*). However, Mr. Jerrery Eidberger, a CalAmp field application engineer, testified via deposition that a substantial percentage of customers do in fact have the LMU programmed by CalAmp to read the speed from the bus. Additionally, CalAmp responded to Omega's Frist Set of Interrogatories, wherein Omega asks CalAmp to "identify all customers for whom CalAmp has loaded scripts for geofencing or speed alerts into an Accused Product" by providing a long list of customers for whom CalAmp has loaded scripts related to speed alerts, noting that "some scripts do not cause a speed exceeded notification." (Pl.'s Ex. 16). CalAmp's acknowledgement that some scripts do not cause a speed exceeded notification means that other scripts do provide the speed exceeded notification from the vehicle bus as opposed to the GPS. Mr. Chen's testimony wherein he flatly denies the LMU reads vehicle speed from the bus is clearly contradicted by CalAmp's interrogatory answers.

Mr. Andrews, CalAmp's retained expert, echoed this misrepresentation when he testified that the CalAmp devices obtain speed data from the internal GPS sensor as opposed to obtaining speed from the bus. (Doc. 182, 248:3-5; 249:1-5). On cross-examination, Mr. Andrews admitted that if the LMU is programmed to read speed from the data bus and make the threshold determination that the speed has been exceeded, the accused device infringes the '727 patent. (Doc. 183, 172:19-22). Either Mr. Andrews ignored CalAmp's answers to Omega's interrogatories in reaching his opinion that the

[11] The '727 patent indicates that it is an object of the invention "to provide a speed exceeded notification device which may be readily used in a vehicle including a data communications bus and related methods." (Joint Ex. 4, column 2, lines 38-40).

accused products do not infringe the '727 patent because speed is derived via GPS, or CalAmp withheld this information from its expert in order to obtain a non-infringement opinion. Either way, the testimony of Mr. Chen and Mr. Andrews provide substantial support for the jury's finding of willful infringement of the '727 patent, and this Court concurs in the jury's finding of willful infringement.

Further indicia of willful infringement by CalAmp is found in an e-mail sent by Mr. Chen to outside patent counsel, Mr. David Bailey[12], and senior vice president for corporate development, Mr. Garo Sarkissian. (Doc. 182, 112:13-19). On July 30, 2013, eight months after Omega instituted this lawsuit, Mr. Chen wrote to Messrs, Bailey, and Sarkissian and asked them to look at the '278 patent. (Pl.'s Ex. 48). Referring to claim 13 of the '278 patent, Mr. Chen wrote: "13 may relate to how we program a unit at the factory so it may be harder to avoid." (*Id.*). The '278 patent has as an object of the invention to "provide a multi-vehicle compatible tracking unit which may be used to control operable vehicle devices, and/or read information therefrom via the vehicle data communications bus." (Joint Ex. 5, column 2, lines 46-49). Clearly, Mr. Chen was concerned as late as July 30, 2013, that the accused devices infringe claim 13 of the '278 patent, as the jury ultimately found. His admission in this e-mail that the units are programed at the CalAmp factory is further evidence that his trial testimony describing the LMU as a black box, programmed by the end-user, was false.

In the same e-mail, Mr. Chen predicts what will ultimately become a defense theory advanced at trial, when he writes: the '727 patent "can be avoided by using GPS speed,

[12] Mr. Bailey is an attorney practicing in the same firm as trial defense counsel. (Doc. 182, 144:20-25).

not vehicle bus received speed, for speeding alerts." (Joint Ex. 5). It is difficult to ascribe a good faith basis for persisting at trial on the theory that the LMU determines speed from the GPS, as opposed to obtaining the data from the bus, when CalAmp's supplemental response to Omega's interrogatory, in which CalAmp admits to loading scripts for speed exceeded notification, was filed March 6, 2015—more two years after Mr. Chen suggested to his counsel and his colleague that using GPS speed will allow CalAmp to avoid the '727 patent. This email is consistent with an attempt to create a plausible defense at trial, perhaps in anticipation of the then-available *Seagate* enhanced damages analysis.[13] That Mr. Chen continued to advance the GPS theory at trial and in view of CalAmp's interrogatory answer demonstrates willful copying of Omega's invention.

In an attempt to satisfy the *Seagate* two-part test at trial, Mr. Chen testified that prior to launching the accused devices, CalAmp investigated the vehicle data bus market. (Doc. 182, 55:21-24). Mr. Sarkissian directed Mr. Chen to search for prior art, resulting in Mr. Chen reviewing over 300 patents. (*Id.* at 57:12–58:2). Mr. Chen also stated that in late 2010, Mr. Sarkissian, Mr. Steven Moran (CalAmp's general counsel), and he had received verbal opinions from Mr. Bailey that the accused products did not infringe existing patents. (*Id.* at 114:7-25; 117:7-12). Mr. Chen stated that he did not request Mr. Bailey to memorialize these oral opinions in writing until after the lawsuit was commenced by Omega. (*Id.* at 145:1-3). The defense marked for identification exhibits 71–74, which are opinion letters written by Mr. Baily as to each patent-in-suit, and each opinion letter is

[13] The Supreme Court in *Halo* disapproved of the *Seagate* test in part because it allowed an infringer to "escape any comeuppance under § 284 solely on the strength of his attorney's ingenuity." *Halo*, 136 S. Ct. at 1933. Hence, opinion letters issued after-the-fact shed little light upon the infringer's culpability which must be "measured against the knowledge of the actor *at the time* of the challenged conduct." *Id.* [emphasis added].

dated June 27, 2014.[14] (Def.'s Exs. 71–74). However, it is curious—assuming Mr. Bailey had vetted the accused products against existing patents back in 2010—that in July 2013 Mr. Chen highlighted the difficulty of avoiding claim 13 of the '278 patent and suggested that the '727 patent can be avoided by focusing upon GPS speed determination. If, in fact, counsel had vetted the accused devices and the Omega patents three years earlier, there is no reason for Mr. Chen to suggest a noninfringement theory to his counsel, nor is there any reason for Mr. Chen to be concerned over claim 13 of the '278 patent. The Court does not find the testimony of Mr. Chen or of Mr. Bailey credible on the issue of whether counsel had rendered legal opinions prior to the launch of the accused products in which he opined the accused products do not offend any patent held by Omega. Mr. Chen's credibility is undermined by other evidence presented at trial[15], and it is incomprehensible that counsel would refrain from issuing a written opinion of noninfringement or invalidity to his client at or near the time that CalAmp launched the accused products. No reasonable explanation for this highly unusual practice was offered by CalAmp or Mr. Bailey.

[14] The Court sustained Omega's objection to the admissibility of Mr. Bailey's opinion letters on the grounds that the letters—offered during Mr. Chen's testimony—constitute hearsay, and the letters confer expert testimony which was not properly disclosed by the Defense. However, the Court has considered the four opinion letters for purposes of the enhanced damages analysis. The Court is unaware of the substance of the verbal opinions allegedly offered by Mr. Bailey in 2010 prior to the launch of the accused products.

[15] Mr. Chen testified via deposition that he removed information from the CalAmp website regarding the LMU devices to make it more difficult for Omega to identify infringement. (Pl.'s Ex. 48) ("We don't want to make it easy for Omega to build their infringement case by just looking at the datasheets on our website. . . . the bigger hole is LMU 3000; it's launched, mature and broadly integrated by multiple partners. We can bury (i.e. omit) the LMU3030 for now on open website.").

The Court next considers whether this was a "close case" and whether CalAmp held a good faith belief the patents were not infringed or were invalid. CalAmp and their expert, Mr. Andrews, note that the Omega patents require the performance of a control function. (Doc. 182, p. 177:7-15; Doc. 195, p. 3). At trial Mr. Andrews defined "control function" as "a message on the bus that is going to control a device exhibiting a physical change in the device or the system." (Doc. 182, 177:7-15). The notion that control function envisions a physical change is critical to the Defendant's noninfringement arguments. Based upon the Court's review of Mr. Andrew's initial expert report, (Def.'s Ex. 38), this definition of control function does not appear in his original expert report. Mr. Andrews acknowledged on cross-examination that he did not apply the physical change qualifier to control function in his deposition. (Doc. 183, 103:10-14). Mr. Andrews explained that he had misspoken in his deposition when he failed to describe control function as requiring a physical change in the device or the system. (*Id.*). Mr. Andrews did, however, include in his rebuttal report the definition of control function as having the ability to enable a physical change in a device of the system; for example, locking a door, starting the engine, or turning on a light." (Def.'s Ex. 47, pp. 11–12). The crux of the non-infringement defense is that the LMU merely sends a "query for data" and does not control a vehicle device. (Doc. 182, p. 177:20-22). Because the LMU does not control a vehicle device, Mr. Andrews argues the accused products cannot satisfy the multi-vehicle compatible controller claim in the patents. (*Id.* at 238:9-12; 238:25–239:6; 239:14–240:6). Accordingly, Mr. Andrews' definition of control function as mandating a physical change precludes one from finding for Plaintiff Omega.

In order for Mr. Andrews' non-infringement argument to prevail, one must accept his opinion that the LMU is a passive device that uses the bus to request and receive data, but which does not "perform one or more control functions" with respect to the vehicle device. (Def.'s Ex. 47, p. 12; Doc. 182, 240:9-11). The difficulty lies in finding a basis for Mr. Andrews' interpretation of "control function." The Court construed the claim term "controller" to mean "electronic circuitry that performs one or more control functions." (Doc. 50, p. 24). The claim term "multi-vehicle compatible controller" was construed by the Court to mean "electronic circuitry that performs one or more control functions, and can operate with more than one vehicle." (*Id.*). The Court did not construe the term control function. CalAmp urged the Court to construe "function" as "[a]n operation of a vehicle device, such as remote starting the engine, remotely unlocking the vehicle doors, or changing the mode of a security system between armed and disarmed." (*Id.* at 18). But the Court observed: "The patent states the invention may be embodied in many different forms and should not be construed as limited to the illustrated embodiments set forth herein." (*Id.* at 18) (internal quotation marks and citations omitted). Accordingly, Mr. Andrews' interpretation of "control function" is not based upon the Court's claim construction. Similarly, nothing in any specification of the four patents-in-suit support Mr. Andrews' definition of "control function." (Joint Ex. 1-4; Doc. 183, 117:8-11; 118:1-6).

Mr. Andrews acknowledged that the microprocessor in the LMUs and the V-Pods sends a signal along the bus to the ECU and requests a response. (Doc. 183, 114:17–115:6). Omega's counsel engaged Mr. Andrews in the following colloquy:

> Q: Let's say the ECU responds with the device code signal—that would be controlling the ECU, wouldn't it?
>
> A: You're asking it for information. It's providing it back, yes.

Q: So that's a yes?

A: Okay.

(*Id.* at 118:9-24)

Q: And would you also agree with me ... that sending a signal and getting a response could be a control function?

A: Yes.

(*Id.* at 120:5-20)

Mr. Andrews admits that when the LMU seeks information from the ECU, the ECU must respond via the bus; however, he contends this is not a control function. (*Id.* at 143:1-6). Mr. Andrews argues that "one with ordinary skill in the art, in the automotive industry in telematics, would understand the difference between a command and a query." (*Id.* at 116:7-10). It is Mr. Andrews' contention that a command—or as he would call it a query—by the LMU that produces a mandatory response by the ECU does not meet the definition of controller and control function. The Defendant's attempt to cast a mandatory response to a query as a passive act that falls short of a control function is unsupported by the record and was conspicuously absent from Mr. Andrews' initial expert report. The emergence of this opinion late in the litigation is highly suspect, particularly when one considers that Mr. Andrews' also opined that the LMU cannot infringe the '727 patent because the LMU only generates speed data from the GPS—which is clearly contradicted by CalAmp's response to Omega's interrogatories.

Mr. Andrews and counsel for CalAmp presented other non-infringement arguments at trial. However, the Court finds that these additional grounds—all of which were rejected by the jury—do not, giving the totality of the circumstances, mitigate against an award of enhanced damages and reasonable attorneys' fees. For example, Mr.

Andrews took issue with whether signals were stored on the accused devices as required by the '885 patent. (Doc. 183, 122:6-9). However, on cross-examination, Mr. Andrews agreed that the LMU sends out signals and the ECU sends a response, "[a]nd those signals are stored on the controller." (*Id.* at 123:7–124:9). Mr. Andrews admits the signals are stored on the LMU until the device is unplugged and re-plugged at which time it starts over. (*Id.* at 125:5-9). In fact, Mr. Andrews agrees the LMU is intended to be used in a manner that would store the CAN data and can be used in multiple vehicles. (*Id.* at 162:6-13).

CalAmp also presented invalidity defenses by identifying prior art that, when considered with SAE standards, rendered the patents obvious. In supplemental filings by the parties, the Court has been made aware that CalAmp sought *ex parte* reexamination of three of the patents-in-issue. The United States Patent and Trademark Office ("USPTO") has reexamined the '278 patent[16], (Doc. 192); the '885 patent[17], (Doc. 193), and the '876 patent[18], (Doc. 201). The USPTO rejected the pertinent claims of these three patents. While the USPTO issued Office Actions in *Ex Parte* Reexamination of the '278, '885, and '876 patents and rejected the relevant claims of these patents, the finding by the USPTO does not have preclusive effect as to the verdict rendered by the jury in the instant litigation unless the final USPTO decision is affirmed by the Federal Circuit before the jury's verdict become final. *Fresenius USA, Inc. v. Baxter Inter., Inc.*, 721 F.3d 1330,

[16] Omega's response, including declarations from Mr. Suman, (Doc. 198-2), whose patent is being considered by the examiner as prior art, and Mr. McAlexander, (Doc. 198-3), demonstrates that the examination of '278 remains in a state of flux. (Doc. 198).
[17] The USPTO rejected every claim of the '885 patent on anticipation and obviousness grounds. (Doc. 202, p. 1).
[18] The USPTO rejected every claim of the '876 patent on anticipation and obviousness grounds. (Doc. 201, p. 2).

1346 (Fed. Cri. 2017). Accordingly, the Court is not bound by the examiner's non-final conclusions when determining whether the jury's verdict is supported by substantial evidence.

The Court recognizes that CalAmp does not suggest in their notices of supplemental authority that the non-final action of the PTO is outcome determinative. Rather, CalAmp cites to the examiner's findings to support the reasonableness of their reliance upon invalidity as a defense. The Court rejects CalAmp's position for a number of reasons. CalAmp's expert, Mr. Andrews, combined certain prior art, such as the Braitberg '497 patent, (Def. Ex. 10), with the Society of Automotive Engineers ("SAE") standard J1978, to predict the Omega '876 patent. (Doc. 182, 173:14–175:23; 178:8-15; 180:22–181:19). Mr. Andrews testified that "one of ordinary skill in the art [would] look to J1978 to determine how to connect the bus." (*Id.* at 184:13–18). However, Mr. Andrews, despite numerous questions posed on cross-examination, failed to articulate the motive for one of ordinary skill in the art to combine these references.[19] The best Mr. Andrews could do in suggesting a motive to combine J1978 with Braitberg is that scan tools were being used at the relevant time; hence, one would know to combine SAE J1978 with Braitberg to make a device multi-vehicle compatible.[20] (Doc. 183, 149:21–150:3). Mr. Andrews applied the Braitberg reference to the '876 and '885 patents, (Doc. 182, p. 198:1-

[19] "A party seeking to invalidate a patent on the basis of obviousness must demonstrate by clear and convincing evidence that a skilled artisan would have been motivated to combine the teachings of the prior art references to achieve the claimed invention, and that the skilled artisan would have had a reasonable expectation of success in doing so." *Kinetic Concepts, Inc. v. Smith & Nephew, Inc.*, 688 F.3d 1342, 1360 (Fed. Cir. 2012) (internal quotation marks omitted).

[20] Mr. Andrews admits that Braitberg does not provide multiple vehicle compatibility, a claim that is necessary to invalidate the Omega patents, so he adds SAE J1978. (Doc. 183, p. 130:6-10). Interestingly, Mr. Chen testified he was unware of J1978.

20), and he applied J1978 to all four patents-in-suit. (*Id.* 250:1–270:19). The motive to combine prior art is critical to CalAmp's invalidity defense, because Mr. Andrews could not find prior art that had all of the claims that Mr. Flick has in his patents. (*Id.* at 132:17–133:7). Mr. Andrews failed to provide more than a conclusory opinion that one of ordinary skill in the art at the relevant time would have known to look to SAE J1978 in combination with the various prior art references. In this regard, Mr. Andrews' fails to assist the Defendant in carrying its burden of proof on invalidity.

In addition, the Court in *Halo* has eliminated the ability of an accused infringer to posit reasonable invalidity defenses which were not relied upon at the time the accused products were introduced into the market. *Halo*, 136 S. Ct. at 1933. Under *Seagate*, "the ability of the infringer to muster a reasonable (even though unsuccessful) defense at the infringement trial" was dispositive of the issue of enhanced damages. *Id.* Post-*Halo*, however, "culpability is generally measured against the knowledge of the actor at the time of the challenged conduct." *Id.* There is no indication in the record that Mr. Andrews provided CalAmp his opinion on invalidity before the accused products went into production in 2011. While the opinion letters issued by Mr. Bailey as to the '885 patent refer to SAE J1978, J1979, (Def.'s Ex. 73), this letter was written in June 2014 long after infringement had begun. Thus, there is no record evidence that CalAmp had knowledge of the invalidity defense derived from the combination of prior art and SAE standards at the time of the challenged conduct.[21] Since culpability is measured against the infringer's

[21] In fact, Mr. Chen filed for patent US 2010/0158211on December 21, 2011, claiming "[s]ystems and methods in accordance with embodiments of the invention continuously collect information from vehicle devices via a vehicle data bus, store information in a database, and retrieve information from the database in response to requests from

knowledge at the time of the challenged conduct, the after-the-fact invalidity defense is of little merit in assessing enhanced damages.[22]

The next *Read* factor directs the Court to consider the Defendant's size and financial condition. According to Omega's expert, Mr. Christian Tregillis, "CalAmp has sold over 245,000 units of the Accused Products, for over $21.5 million from April 2011 through November 2014," (Pl.'s Ex. 65, p. 37), "earning over $4.1 million in gross profits." (Pl.'s Ex. 65, p. 47). CalAmp is a publicly-traded corporation with over $75 million dollars in earnings last year. (Pl.'s Ex. 65). While CalAmp argues that the accused products are low-margin products sold in an extremely competitive market, this misses the point. The overall financial health of the infringer is evaluated—not the net profit generated by the offending conduct—to "ensure that enhanced damages would not prejudice defendant's non-infringing business." *Powell v. Home Depot U.S.A., Inc.*, 715 F. Supp. 2d 1285, 1298 (S.D. Fla. May 28, 2010). The Defendant has the financial wherewithal to endure the sanction of enhanced damages and an award of reasonable attorneys' fees.

A closely related factor for the Court to consider is the duration of CalAmp's conduct. As previously discussed, CalAmp was well aware of Omega's patents since at least 2010. Rather than take a license, and choosing not to design around Omega's patents, CalAmp elected to sell infringing products and continues to do so to this day. CalAmp's motivation to engage in this behavior is obvious: their customers wanted this technology, and CalAmp wanted to provide it. Moreover, as previously discussed,

---

remote devices." (Pl.'s Ex. 14, Abstract). The patent issued June 21, 2012, and Mr. Chen did not disclose the prior art relied upon to invalidate Omega's similar patents.

[22] Assuming CalAmp had knowledge of the invalidity defense at the relevant time, the Court would not reach a different conclusion, since the motive to combine the prior art with the SAE standards is deficient.

CalAmp attempted to conceal its infringement by misrepresenting to Omega that it only sold black boxes which were programmed by customers and by removing information from the CalAmp website to make discovery of infringement more difficult. These additional factors all weigh in favor of an award of enhanced damages and reasonable attorneys' fees.

Based upon the foregoing, the Court finds CalAmp willfully infringed the Omega patents-in-suit, further finding that the jury's finding of willful infringement is supported by substantial evidence. The Court independently reviewed the record evidence and finds an award of enhanced damages of threefold the actual damages and an award of reasonable attorneys' fees is supported by the evidence.[23]

The Court turns now to Omega's request for a permanent injunction. Omega quotes Chief Justice Robert's concurring opinion in *eBay* wherein he remarks that from "at least the early 19th century, courts have granted injunctive relief upon a finding of infringement in the vast majority of patent cases." *eBay*, 126 S. Ct. at 1841. However, Justice Thomas speaking for the majority clarified that "the decision whether to grant or deny injunctive relief rests within the equitable discretion of the district courts, and that such discretion must be exercised consistent with traditional principles of equity, in patent disputes no less than in other cases governed by such standards." *Id.* As Justice Kennedy elaborates in his concurrence, "trial courts should bear in mind that in many instances the nature of the patent being enforced and the economic function of the patent holder

[23] The Court notes that even if the PTO's non-final action rejecting the relevant claims of the '885 and '876 patents are affirmed by the Federal Circuit, enhanced damages and reasonable attorneys' fees are appropriate for the willful infringement of the '727 and '278 patents—assuming the '278 patent survives reexamination.

present considerations quite unlike earlier cases." *Id.* at 1842. Justice Kennedy cautions trial courts to use care in issuing permanent injunctions in the context of patent holders who primarily employ their patent to obtain licensing fees. *Id.* "When a patented invention is but a small component of the product the companies seek to produce and the threat of an injunction is employed simply for undue leverage in negotiations, legal damages may well be sufficient to compensate for infringement and an injunction many not serve the public interest." *Id.*

Mr. Flick is a patent holder who presently generates revenue by licensing his patents; he no longer manufactures products. While Omega argues that it has maintained a restrictive licensing program of the patents-in-suit and has selectively licensed only a limited number of entities in the marketplace, (Doc. 148, p. 17), it is equally true that Omega was willing to license its patents to CalAmp. While Mr. Flick testified that Omega requires most licensees to transfer rights of improvements to Omega in order to strengthen its patents, it is clear that Omega does not require every licensee to agree to this term. In fact, the License Agreement entered into between Omega and CalAmp in relation to the products sold to SKYPATROL does not provide for assignment of improvements to Omega. (Pl.'s Ex. 88).

While cognizant of Omega's contention that a compulsory licensing agreement does not make Omega whole, and recognizing the Court need not balance the hardships in cases of willful infringement[24], the Court finds that monetary damages are adequate to compensate Omega for the injury sustained by CalAmp's infringement. Moreover, as

[24] *United States v. Marine Shale Processors*, 81 F.3d 1329, 1358 (5th Cir. 1996); *see also Windsurfing Int'l v. AMF, Inc.*, 782 F.2d 995, 1003 (Fed. Cir. 1986).

indicated by the declaration of Mr. Michael Zachan, CalAmp's Senior Vice President, a number of public safety, local government, and utility providers would be placed at a considerable disadvantage in the execution of their important duties if a permanent injunction issues. The Court agrees with Omega that the logistic and financial turmoil that befalls CalAmp should an injunction be ordered is of their own design. However, the collateral impact upon important public safety functions weighs against a permanent injunction.

For the foregoing reasons, the Court denies Omega's request for a permanent injunction, finding that the payment of customary licensing fees to Omega is adequate to protect the interests of Omega.

IV. CONCLUSION

For the aforementioned reasons, it is **ORDERED AND ADJUDGED** as follows:

1. Plaintiff Omega Patents, LLC's Motion for Entry of Final Judgement (Doc. 148) is **GRANTED**.
2. Plaintiff Omega Patents, LLC's Renewed Motion to Award Prejudgment Interest (Doc. 154) is **GRANTED**.
3. Plaintiff Omega Patents, LLC's Motion for Enhanced Damages (Doc. 148) is **GRANTED** and Plaintiff is awarded treble damages in the amount of eight million, nine hundred and twenty-five thousand and six hundred dollars ($8,925,600).
4. Plaintiff Omega Patents, LLC's Motion for Entitlement to Reasonable Attorneys' Fees (Doc. 148) is **GRANTED**.

5. Plaintiff Omega Patents, LLC's Motion for Entry of a Permanent Injunction (Doc. 148) is **DENIED.**

DONE AND ORDERED in Orlando, Florida, on April 6, 2017.

PAUL G. BYRON
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties

ITEM 4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of KENNETH E. FLICK	
Request for Reexamination of U.S. PATENT NO.8,032,278	
Control No. 90/013,587	Attorney Docket No.: C13-03895(0058106CIP1_REX)
Confirmation No. 8867	
Filing Date: SEPTEMBER 14, 2015	Examiner: M. GRAHAM
For: VEHICLE TRACKING UNIT WITH DOWNLOADABLE CODES AND ASSOCIATED METHODS	Art Unit: 3993

RULE 132 DECLARATION BY MICHAEL J. SUMAN

I, the undersigned, hereby declare that:

Background

1. I am currently the owner of a consulting company, Product and Market Development L.L.C., located in Caledonia, Michigan. Prior to that, from 1996 until 2002, I was the Group Vice President at Johnson Controls Automotive. And prior to that, from 1979 to 1996, I was at Prince Corporation, and my last position was Vice President of Sales and Marketing.

2. I received a BS degree in Business and Marketing from Ferris State University in 1974.

3. I am a listed inventor on over 50 U.S. patents and I am familiar with the patent process.

4. I have been retained by the Patent Owner to provide technical assistance in the present reexamination of the '278 patent, particularly with respect to assisting with the proper understanding of the teachings of my cited U.S. Patent No. 6,028,537, and to also assist the with the correct understanding of the relevant technology at the time of my '537 patent.

The '278 Patent

5. I have reviewed the '278 patent which is the subject of the present reexamination.

6. I have reviewed the Official Action dated May 6, 2016 for the reexamination of the '278 patent.

7. I understand that the '278 patent includes three independent claims and twenty-two claims total. Representative Claim 1 is directed to a multi-vehicle compatible tracking unit for a vehicle comprising a vehicle data bus extending throughout the vehicle. The multi-vehicle compatible tracking unit includes a vehicle position determining device, a wireless communications device, and a multi-vehicle compatible controller for cooperating with the vehicle position determining device and the wireless communications device to send vehicle position information. The multi-vehicle compatible controller communicates over the vehicle data bus with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles. A downloading interface is included for permitting downloading of enabling

data related to the at least one corresponding vehicle device code for use by the multi-vehicle compatible controller.

8. I understand that the specification of the '278 patent at column 24, lines 8-12, provides that "[t]he enabling data may be the vehicle device code or codes, an instruction to select a code or codes from among those already stored, or the data or sequence to allow the controller to generate the vehicle device code or codes, for example."

9. I further understand that independent Claim 13 of the '278 patent recites that the downloading interface includes a connector for temporary connection to a downloading device, and that independent Claim 18 recites that the downloading interface includes a wireless receiver for temporary connection to a downloading device.

10. Based upon my study of the '278 patent, and my knowledge of the relevant technology, I understand that the '278 patent is directed to a multi-vehicle compatible tracking unit that may be used to write to and/or read from vehicle devices via the vehicle data communications bus, and do so despite the fact that different vehicles have different device codes.

Teachings of My '537 Patent & Relevant Technology

11. I have reviewed my cited '537 patent and the provisional application No. 60/019,773 filed June 14, 1996, from which my '537 patent claims priority.

12. Section 5 of the Official Action characterizes the teachings of my '537 patent as follows:

> Suman discloses that the controller is coupled to the vehicle data bus for communication with at least one vehicle device, using a corresponding vehicle device code, from among a plurality of codes for different vehicles. As the device uses different vehicle codes for different vehicles it is thus multi-vehicle compatible. The devices include sensors and controls for doors, windows, ignition, speedometer, RPMs, fuel level, turn signals, lights, gears, temperature, oil pressure, defroster, headlights, etc.). See Figs. 3, 5, 44, 45, 47; see also col. 43, lines 27-47. As noted in col. 37, lines 15- 17: "The multiplexing scheme is set forth in SAE standard J1850 and is universally used in the automotive industry." It is also inherent that the J1850 bus described in the Suman '537 patent is included in a variety of different makes and models of vehicles per the federally mandated standard.

Based upon my knowledge and experience, I respectfully disagree with these contentions with respect to the characterization of a multi-vehicle compatible controller. The embodiments contemplated by me at the time of my '537 patent, the disclosure in my '537 patent, and the related commercial developments within my work responsibilities were not directed to a multi-vehicle compatible controller and downloading interface as in the '278 patent claims. The embodiments contemplated by me at the time of my '537 patent did not include multi-vehicle compatibility, and at the time I left Johnson Controls in 2002 I had never contemplated or worked with any multi-vehicle compatible controller as described in the '278 patent. I point out that at the time of my '537 patent, the vehicle device codes were proprietary to different manufacturers, and even different

model lines offered by manufacturers. Moreover, the device codes were not made freely available, and were quite difficult to obtain.

13. The Official Action also cited to my '537 patent in col. 36, lines 31-52, as follows:

> To achieve these aspects and other advantages, the vehicle accessory control system of the present invention includes a plurality of electrically-operated vehicle accessories, a receiver to be mounted in a vehicle for receiving RF signals from a land-based transmitter, and a control circuit coupled to the receiver and to the vehicle accessories for controlling the operation of the vehicle accessories in accordance with a control program. The RF signals include an address uniquely identifying the vehicle and a reprogramming signal for reprogramming the operation of at least one of the vehicle accessories. The control circuit includes an input interface for receiving information regarding a plurality of sensed conditions, control means for controlling the operation of the vehicle accessories in accordance with the control program and in response to sensed conditions received from the input interface. The control circuit further includes reprogramming means for selectively reprogramming the control program in response to the detection of an RF signal including an address identifying the vehicle and the reprogramming signal, to selectively change the manner in which the control means controls the operation of at least one of the vehicle accessories.

Based upon my knowledge and experience, the reprogramming means is not related to vehicle codes or to providing a downloading interface for permitting downloading of enabling data related to

the at least one corresponding vehicle device code for use by the multi-vehicle compatible controller, as in the '278 patent claims. Instead, the reprogramming means is for vehicle personalization and was not capable of making communications level changes that would be necessary to provide multi-vehicle compatibility.

14. I would also like to clarify that the following passage from my '537 patent does not support the contention that my patent discloses a multi-vehicle compatible controller and downloading interface as in the '278 patent claims:

> Yet another aspect of the present invention is to provide a vehicle locating system that allows the vehicle owner to determine the location of the vehicle when the vehicle has been loaned to a friend or family member. In this regard, the present invention may also be used by the manager of a fleet of commercial vehicles, such as taxis, police cars, trucks, or other delivery vehicles, to track the location of each vehicle in the fleet. (Col. 2, lines 3-10).

It was expected that the vehicles in a given fleet would be the same type vehicle having the same device codes.

15. I have also carefully considered the contentions in the Official Action, that my '537 patent discloses: a downloading interface in the form of a connector for temporary connection to a downloading device (as relates to Claim 13 of the '278 patent); and a downloading interface in the form of a wireless receiver for temporary connection to a downloading device (as relates to Claim 18 of the '278 patent). In particular, the Official Action provides that the cellular phone could be connected through the vehicle bus, or a wired RS-232

serial connection of the controller, and thus the RS-232 connector provides an additional wired connection. It is my position, based upon my knowledge and experience, that none of the cited portions of my '537 patent supply these teachings relating to a wired or wireless interface. Indeed, I was simply not working on the problem of multi-vehicle compatibility, and there was no project to develop any software to give the connector the functions as contended in the Official Action. Moreover, the embodiments conceived and described in the '537 patent were not capable of modifying the communications level to allow for multi-vehicle compatibility. Along these lines, there is also no disclosure in my '537 patent of using the telephone to provide a wireless interface as in the '278 patent.

16. I hereby declare further that all statements made herein are of our own knowledge and are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful and false statements may jeopardize the validity of the application or any patent issued thereon.



Michael J. Suman

July 5, 2016

Date

ITEM 5

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of **KENNETH E. FLICK**	
Request for Reexamination of **U.S. PATENT NO.8,032,278**	
Control No. **90/013,587**	Attorney Docket No.: C13-03895(0058106CIP1_REX)
Confirmation No. 8867	
Filing Date: SEPTEMBER 14, 2015	Examiner: M. GRAHAM
For: **VEHICLE TRACKING UNIT WITH DOWNLOADABLE CODES AND ASSOCIATED METHODS**	Art Unit: 3993

RULE 132 DECLARATION BY JOSEPH C. McALEXANDER, III

I, the undersigned, hereby declare that:

Background

1. I am the Founder and President of McAlexander Sound, formerly IP Director of CCI and VP of EPI Technologies, Inc., and have 43 years of experience in microcircuit and semiconductor technologies, including: device design, fabrication, assembly, testing, and marketing, and control system design, analysis, quality, reliability, and defect/failure analysis at Texas Instruments.

2. I am Registered Professional Engineer (#79454) in the State of Texas and hold a Bachelor of Science degree in Electrical Engineering from North Carolina State University.

3. I am an inventor on 31 U.S. patents and a number of foreign patents, and I am familiar with the patent process.

4. I have been an expert witness and technical consultant for the past 26 years in IP matters related to product/process analysis and investigation.

5. I prepared expert reports and provided trial testimony in the case of Omega Patents, LLC (the '278 Patent Owner) v. Calamp Corp. (the Requester) that recently concluded in the Middle District of Florida. In that Calamp litigation the '278 patent was asserted and determined by the jury to be not invalid, to be infringed by Calamp, and that Calamp acted despite an objectively high likelihood that its actions infringed a valid patent, and that this objectively high likelihood of infringement was either known or so obvious that it should have been known to CalAmp.

6. I have been retained by the Patent Owner to provide technical consultation in the present reexamination of the '278 patent, particularly with respect to addressing rejections based upon U.S. Patent No. 5,732,074 to Spaur et al.

The '278 Patent

7. I have extensively reviewed the '278 patent, along with its file history, and arguments advanced by Requester's trial expert, Mr. Andrews, as part of my work on behalf of the Patent Owner during the course of the Calamp

litigation. I also reviewed the materials again for the analysis provided herein.

8. I have reviewed the Official Action dated May 6, 2016 for the reexamination of the '278 patent.

9. I have reviewed Exhibits 14 and 15 from the expert report of Requester's trial expert, Mr. Andrews, (attached hereto for the convenience of the Examiner) that were asserted to describe the actual CellPort Labs products of the Spaur et al. patent.

10. I have also reviewed the Rule 132 Declaration being submitted concurrently herewith by Michael J. Suman, the lead inventor on U.S. Patent No. 6,028,537, i.e., another reference being cited in the Official Action. In that Declaration, Mr. Suman confirms my understanding that at the time of the Spaur et al. patent (filed about six months before the filing of the provisional application leading to the Suman et al. patent), the vehicle device codes were proprietary to different manufacturers, and even different model lines offered by manufacturers; and that the device codes were not made freely available, and were quite difficult to obtain.

11. I understand that the '278 patent includes three independent claims and twenty-two claims total. Representative Claim 1 is directed to a multi-vehicle compatible tracking unit for a vehicle comprising a vehicle data bus extending throughout

the vehicle. The multi-vehicle compatible tracking unit includes a vehicle position determining device, a wireless communications device, and a multi-vehicle compatible controller for cooperating with the vehicle position determining device and the wireless communications device to send vehicle position information. The multi-vehicle compatible controller communicates over the vehicle data bus with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles. A downloading interface is included for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by the multi-vehicle compatible controller.

12. I understand that the specification of the '278 patent at column 24, lines 8-12, provides that "[t]he enabling data may be the vehicle device code or codes, an instruction to select a code or codes from among those already stored, or the data or sequence to allow the controller to generate the vehicle device code or codes, for example."

13. I further understand that independent Claim 13 of the '278 patent recites that the downloading interface includes a connector for temporary connection to a downloading device, and that independent Claim 18 recites that the downloading interface includes a wireless receiver for temporary connection to a downloading device.

Analysis of Spaur et al.

14. I attended the in-person interview kindly granted to Patent Owner's legal representatives and me on June 16, 2016, during which the Spaur et al. reference, among other things, was discussed.

15. I understand that during the in-person interview, Patent Owner's legal representatives clarified to the Examiners that Spaur et al. discloses sending position data from a GPS receiver via the cellular phone (col. 14, lines 4-25). In other words, the addition of Johnson et al. with Spaur et al. was not needed in view of the contentions with respect to Spaur et al., since Johnson et al. was cited only for its teaching of a GPS receiver sending position information. Accordingly, I have limited my analysis to the teachings of Spaur et al.

16. As noted in the Ex Parte Reexamination Interview Summary dated 6/21/16, the Examiners helpfully suggested that Patent Owner "provide evidence relating to the use of device codes in vehicles at the time of the invention in relation to their inherent use in Suman and Spaur."

17. I understand that, to rely upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.

18. I confirm and reproduce below the portion of my analysis relating to Spaur et al. and the '278 patent from my expert report in the Calamp litigation:

> Spaur is directed to enhancing communication between a remote site and vehicle, especially involving information transfer and storage, including data and control, using standard communication protocol and hardware network features. Specifically, Spaur contemplates communication with a vehicle via modem (72/76, 82) from a browser terminal via the internet to a cellular based vehicle network (82). A protocol controller and converter (3) translates the information transferred and communicates that information via a Controller Area Network (CAN) interface via the CN bus to the different vehicle devices. The flow of communication is bi-directional.
>
> Mr. Andrews [Calamp's trial expert] argues that Spaur discloses a multi-vehicle compatible controller. I disagree. The CAN controller described in Spaur does not specify, in fact is silent, that it communicates with a vehicle device "using at least one corresponding vehicle device code from among a plurality thereof for different vehicles," as required by independent claims 1 and 13. Further, Spaur fails to specify that it has a download interface for "downloading of enabling data… for use by said multi-vehicle compatible controller," also required by both independent claims 1 and 13. Spaur fails to disclose device codes.

19. The Official Action incorporates by reference a listing of how Spaur et al. (and Johnson et al.) relates to the claims of the '278 patent from Requester's Exhibit F. From Exhibit F, the following sections of Spaur et al. are asserted

as disclosing a multi-vehicle controller using at least one corresponding device code from among a plurality thereof for different vehicles:

> The controller 30 is responsible for a number of functions related to understanding and acting on information received from one or more remote stations 10, obtaining and responding to requested information and operatively functioning with information including data available from other elements in the vehicle. In that regard, the controller 30 communicates with a controller interface 34 that electrically links the controller 30 with a vehicle standardized network 40. The vehicle standardized network 40 includes a controller unit 44 that provides appropriate message and data handling functions associated with sending and receiving information including data from each of a plurality of physical vehicle devices 50 that are operatively connected to a bus 46 of the vehicle standardized network 40. Like the remote standardized network 14, the vehicle standardized network 40 is an established and previously developed network that interfaces with components in a vehicle, such as engine related components in order to provide desired or requested data concerning the operations or status of these components. (Col. 6, lines 31-50).

> This further standardized communications network is responsible for handling the communication exchange functions associated with sending and receiving information relative to the vehicle devices 50. In a preferred embodiment, this further standardized network is a network that has been previously devised and is commonly used in a number of makes and models of vehicles. This communications network is defined as the controller area network (CAN) 124. Although the

> CAN 124 has previously commonly been used in operative association with automotive electronics including engine control elements, sensors, lamps, electric windows etc., the present invention also enables the CAN 124 to be used with a variety of other devices contained in the vehicle, such as the previously described devices. (Col. 10, lines 15-29).
>
> In interfacing with the CAN 124, the controller 30 also has device drivers 128 that are useful in achieving desired communications in both directions between the CAN 124 and the controller 30. For example, the processor 90 is able to obtain data or other information from the vehicle devices 50a-50n using the device drivers 128 and which information can be used by the processor 90 including, for example, storing data in the data memory 106 for subsequent access and transmission to a remote station 10. (Col. 10, lines 55-64.

Based upon my knowledge, experience and analysis, I do not believe that these cited portions of Spaur et al. disclose the multi-vehicle compatible controller as in the claims of the '278 patent. In addition, I also believe that, based upon these portions of Spaur et al., or any other portions of Spaur et al., there is no inherent teaching of the multi-vehicle compatible controller as in the '278 patent claims. In other words, it does not necessarily flow that Spaur et al. would have a multi-vehicle compatible controller using the device codes as in the '278 patent claims.

20. I also point out that Exhibits 14 and 15 from Requester's technical trial expert, Mr. Andrews, and describing the actual CellPort Labs products as disclosed in Spaur et al.,

also fail to have any express or inherent teaching of the multi-vehicle compatible controller as in the '278 patent claims. Indeed, Mr. Andrews cited the CellPort Labs products disclosed in Exhibits 14 and 15 for the teaching of a common housing as follows:

> The GPS receiver, the wireless communications device, the controller and the downloading interface are all electronically coupled. It would have been obvious to one skilled in the art to place them in a single housing, as was done with the actual CellPort Labs products, the C/P Connect and the CP 2100 (the '074 [Spaur et al.] patent is assigned to Cell-Port). (Andrews' Expert Report, page 181).

21. The Official Action also cites to the following language from col. 4, lines 38-45 of Spaur et al. for the alleged teaching of the downloading interface as recited in the '278 patent claims:

> Preferably, the controller in the vehicle is also associated with an interface for communication with one or more available systems, such as an RS232 connection, an Ethernet connection and/or a PCMCIA unit. In a related embodiment, the controller includes a direct communications port for receiving and sending information without requiring the wireless device and the Internet connection to the wireless device.

Again, based upon my knowledge, experience and analysis, I do not believe that these cited portions of Spaur et al., or any other portions of Spaur et al., disclose (either directly or through inherency) a downloading interface for permitting

downloading of enabling data related to the at least one corresponding vehicle device code for use by the multi-vehicle compatible controller as found in the claims of the '278 patent. Spaur et al. does disclose an interface in combination with a controller; however, Spaur et al. fails to disclose the multi-vehicle compatible controller and the downloading interface as recited in the claims of the '278 patent. In addition, there is nothing in the description of the corresponding CellPort Labs actual products (Exhibits 14 and 15) that discloses the multi-vehicle compatible controller and the downloading interface as recited in the claims of the '278 patent.

22. I hereby declare further that all statements made herein are of our own knowledge and are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful and false statements may jeopardize the validity of the application or any patent issued thereon.

Joseph C. McAlexander, III

July 6, 2016
Date

EXHIBIT 14

MOBILEWEB™
CHANGING THE FACE OF MOBILE NETWORKING THROUGH UNIVERSAL WIRELESS CONNECTIVITY

Pat Kennedy
CellPort Labs, Inc.
885 Arapahoe Avenue
Boulder, CO 80303

The world is going wireless. The U.S. alone claims over 32 million of the world's 100+ million cellular and Personal Cellular Service (PCS) subscribers. The annual global growth rate still exceeds 35 percent. And 80 percent of users worldwide rely on handheld, pocket-sized phones.

The Internet's World Wide Web connectivity phenomenon is happening even faster. Enabled by CERN HTTP server development in 1991 and the NCSA Mosaic web browser 1992, the ease of establishing Home Pages and utilizing the "Net" has lured everyone from business professionals to home users to investigate its wares. It now boasts 20 million users in the U.S., exponential growth and increasingly innovative new application offerings.

Internet and World Wide Web application development tools and standards simplify networking opportunities. This opens avenues for new business and personal applications. CellPort Labs extends this ever-expanding networking paradigm by combining the power of the Internet and World Wide Web with the flexibility of wireless connectivity, changing the face of mobile networking.

CellPort Labs' MobileWeb™ technology integrates a complete "mobile" Internet/Web server into appropriately equipped vehicles. Running on the CellPort™ Controller/Server, and coupled with its patented Universal Wireless Port technology, MobileWeb opens an unlimited range of bidirectional data networking opportunities and applications, unencumbered or restricted by a single, fixed geographic location.

This vehicular connectivity is unprecedented in its power and potential. It solves the problem of cost-effective, bidirectional wireless data connectivity. As an integrated mobile server it offers complete Internet/Web functionality. Supporting ongoing browser Plug-In innovations such as Java™, MobileWeb embraces the Internet/Web's dynamic environment.

The MobileWeb looks and functions like any other TCP/IP and HTTP-based Internet/Web site. Using standardized applications development tools, it enables unprecedented mobile networking capability by reducing development complexity. Requirements for customized application development are more easily accommodated, lowering economic barriers and opening mobile networking opportunities to businesses and consumers.

ISBN# 0-7803-3277-6

Affordable applications will touch every mobile industry. One-to-one networking or broadcast capability from vehicle to Internet/Web or vice versa can simplify business and operating procedures. Whether providing real-time, ambulance/emergency room connectivity, routing and redirecting delivery services or simply sending vehicle status information, MobileWeb revolutionizes mobile networking.

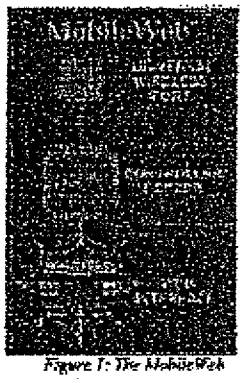


Figure 1: The MobileWeb

Vehicular Data Communications

Many businesses provide some or all of their daily services and transactions from mobile platforms. Incorporating these vehicles into an expanding data networking world previously required extensive custom software application and hardware development. Correspondingly high price tags eliminated all but the largest companies, placing potential applications out of reach for the majority of business and public service organizations.

The World Wide Web has become an applications enabler. Its development tools hide TCP/IP networking complexities, offering simplified communications with HTTP and HTML formatting. This has forged an industry unto itself and will transform the way businesses communicate and transact. Until now, the component missing from this communications revolution was the ability to effectively combine wireless communications with mobile networking.

CellPort Labs, recognizing the need for vehicle-based, mobile data networking, understood the simplicity and precedent-setting significance of the World Wide Web. The company incorporated internal vehicular communications, wireless and data connectivity, and Internet/Web networking, creating MobileWeb technology. The data networking and Internet paradigm is enhanced, enabling a heretofore impossible range of mobile applications.

Web-On-Wheels

Running on the CellPort Controller/Server, MobileWeb functions like any Internet/Web site. Its two-way data networking capability allows the vehicle to respond to Internet/Web data requests, or send data to other Internet/Web sites by executing internal application programs.

For example, remote clients can access the vehicle's "pages" or, equipped with special client applications, download data to the vehicle. Similarly, MobileWeb can run stored or downloaded programs, combining vehicular data with Internet-accessed, environmental or geographic information. These "on-the-fly" applications further extend the intelligent networking opportunities.

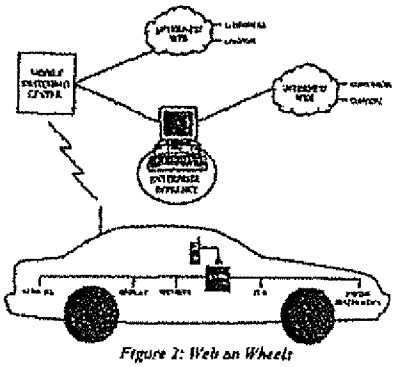


Figure 2: Web on Wheels

The CellPort Controller/Server is an Internet Protocol (IP) addressable node within the Internet's TCP/IP network of networks. Because Internet addresses define physical nodes rather than geographic locations, the server's "mobility" is virtually transparent.

As long as it is connected to the Internet "cloud", MobileWeb can be accessed transparently (like any other Internet/Web server) regardless of location. The MobileWeb server can store and dispense real-time data, varying or correlated, with its geographic location and physical status.

MobileWeb pages contain information gathered from the vehicle's internal data network "vehicular local area network (VLAN)," or from other Internet/Web sites. The VLAN is similar in concept to a LAN except for the fact that it consists of the vehicle's electronic devices instead of personal computers. VLAN devices could include PCs, as well as other vehicular devices such as air bag controllers, door locks, Global Positioning System (GPS) equipment, ignition controls, LCD displays, medical equipment and temperature sensors/equipment.

MobileWeb communicates with embedded vehicular or Plug-In devices through the Controller function of the CellPort Controller/Server, collecting data or sending commands. Although they appear to, remote Web clients cannot access these devices directly. This is accomplished by pages that present device interfaces and intranet with the vehicle devices using CGI-Bin.

Architecture

The CellPort Controller/Server is the heart and brain of MobileWeb. The Controller function is a powerful multitasking processor/micro computer, communicating with inboard vehicle devices connected to the VLAN and a wireless-access network.

MobileWeb is dependent upon - but independent of - specific wireless technology. It requires a wireless connection in order to provide a link to the Internet cloud. But by incorporating CellPort Labs' Universal Wireless Port, it enables any cellular, PCS or wireless handheld device to interface with the vehicle. This universal interfacing capability provides significant cost and application benefits over other available proprietary, non-universal or embedded mobile wireless solutions.

In the Client/Server architecture, the VLAN connects various internal or peripheral electronic devices using a standard automotive LAN protocol. Most manufacturers incorporate internal LANs into new vehicles, but thus far applications and uses have been limited by vehicle-specific control problems.

The CellPort Controller can communicate with these devices in their own language, then translates information to the Internet's standard transmission protocol (HTTP).

As a multitasking processor, the CellPort Controller monitors and communicates with multiple vehicular devices simultaneously. For example, it can monitor the status of electronic devices, at the same time as it accepts wireless data packets from an external Internet site. Users making data requests appear to have transparent access to vehicular devices, but are actually communicating through the CellPort Controller/Server.

CDPD packet data is particularly well-suited to MobileWeb applications. It uses the IP, eliminating the translation gateways and custom software required by other solutions. It is an encrypted, digital-packet-data overlay that talks directly to the Internet through a secure firewall connection. Using CDPD, MobileWeb is capable of a 19.2 Kbps raw-data rate with effective throughput of approximately 10 Kbps.

Wireless communication to the Internet is handled through the Server function of the CellPort Controller/Server. It has a standard twelve-digit IP address and incorporates the complete TCP/IP protocol stack, controlling the sending, receiving and proper routing of Internet data packets. As an addressable Internet node, the server provides the required intelligence and messaging for advanced networking and application opportunities.

The Server stores applications in RAM or ROM, and can incorporate flash memory or PCMCIA storage for dynamic additions or changes. Not requiring disk drives, the Server relies on its processing and memory power to parse application data. But its software architecture places no limits on functionality, offering a complete Internet Web server package.

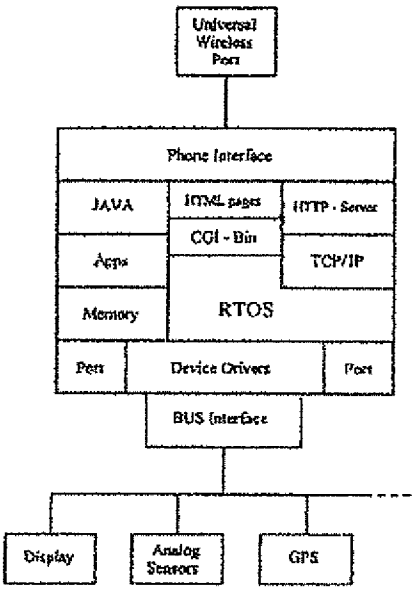


Figure 3: Controller/Server internal architecture

CellPort Server capability includes complete support for ongoing Internet/Web browser Plug-In developments, including Java applets, RealAudio™ and others. Plug-Ins extend Web capabilities to other dimensions by adding interactivity, sound and other features. The wealth of Web developer talent addressing Plug-Ins will keep the Internet/Web a dynamic environment. CellPort's complete Plug-In support extends this evolving capability to the mobile environment.

Applications

Extending World Wide Web connectivity to mobile vehicles expands the concept of an Internet server. It eliminates its tethered connection and opens up a host of new application development.

Vertical applications will dominate near-term development. Using CellPort development kits, businesses can conceptualize, create and implement wireless connectivity solutions in a fraction of the time required for typical customized developments. The range of mobile Internet uses is limited only by application developers' imaginations.

Delivery services become two-way active nodes on a data communications network. Internet-savvy customers can request a service pick-up or monitor delivery status by accessing the Web. Interacting directly with the system provides instant service gratification, eliminating the aggravation of customer service systems.

Within the vehicle, GPS systems can continuously monitor positions, communicate with the CellPort Controller/Server and post or send data through the Web. Dispatchers can monitor vehicle locations and re-route nearby vehicles to incorporate additional pickups and eliminate secondary dispatches.

Other vehicle data tracking examples include: monitoring temperature sensors for damaging deviations in environmental conditions; checking engine or component performance data to anticipate breakdowns/failures; and notifying dock personnel of approaching vehicles for quicker loading or unloading.

One of MobileWeb's compelling application capabilities lies in a vehicle's ability communicate bidirectionally through the Internet to any connected client or server worldwide. By bringing in a MobileWeb-equipped vehicle, oil companies could monitor instruments in remote land or sea locations without having to invest in proprietary systems.

A whole host of telemedicine and emergency-care applications are also possible. Ambulances can connect and send patient data ahead to hospital emergency rooms. Remote specialists and experts can access the same MobileWeb provided pages, resulting in enhanced medical diagnostics. Connecting mobile-care units with stationary-care facilities or other remote locations provides a diagnostic and treatment link not previously possible.

Embedded server applications can analyze data, warn of trouble ahead and provide alternate directions. Vehicle-based interactions can incorporate readily available voice recognition, touch screen displays and text-to-speech technologies, addressing driver interference concerns.

Consumers can also use CellPort Labs' vehicle-based technologies to access a host of horizontal market applications, including restaurant information and reviews, travel or route guidance, automated vehicle maintenance reporting or emergency vehicle dispatch.

Extending the Internet

MobileWeb takes advantage of the Internet/Web's development simplicity, adding additional functionality by enabling mobile server environments. Devices talk to a standard API and therefore require less custom software development, resulting in lower applications costs.

With MobileWeb, incorporating wireless connectivity requires less specialized developer expertise. Working with data services like CDPD, the Server/Controller and Universal Wireless Port keep the connection transparent.

Developers do not need to know or understand protocols for communicating with engine controllers, air bag sensors or GPS devices. The CellPort Controller/Server handles it all. Extensive applications can be written more quickly and cost-effectively.

Customized wireless applications do exist. Many rely on private wireless networking capability and proprietary software developments, which require specialized programming expertise. Depending on the scale of the application, development can cost anywhere from several hundred thousand to millions of dollars in infrastructure and software. These systems require ongoing maintenance, updates and changes, which necessitate additional customized development and added expense.

Because of the cost, vehicle-based wireless data connectivity applications were limited to large organizations, with corresponding budgets. Small users, such as 50-truck delivery fleets, could not cost justify the prohibitive development and ongoing expenses.

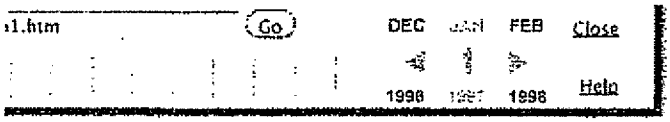
In contrast, the Internet/Web relies on open systems and standards. It uses TCP/IP for data-packet routing and control. HTTP is the transmission protocol describing what to do with messages. HTML handles "page formatting." As an open standard, anyone can develop Internet applications if they incorporate and conform to the published protocols.

Available Internet/Web application development tools incorporate standard Internet protocols. Developers need not worry about TCP/IP connections and data networking. These high-level tools sit "above" the Internet's embedded protocols, reducing much of the application development to simple HTML formatting. By slashing development costs from 30% to 80%, this offers a significant implementation savings.

In contrast to proprietary and embedded single-solution wireless architectures, CellPort Labs' open architectural solution borrows the s successful formula of winning technologies in the '90s. Open systems and standards continually result in the most robust, innovative, flexible and cost-effective solutions.

CellPort Labs MobileWeb enables an unlimited number of mobile-market application opportunities. Its ties to the Internet and World Wide Web lower the economic barriers of mobile connectivity solutions, eliminates the need for complex proprietary developments and makes it available to all.

EXHIBIT 15



MSC-9710 On-Line Brochure

- Introduction
  - Developer's Kit
  - MobileWeb: The Mobile Server/Controller
  - Unlimited Application Potential
  - CellPort's MobileWeb
- Software
  - C/P Connect
  - Core Features
  - Using the Developer's Kit
  - Developer's Kit Requirements
- Hardware
  - Design Concepts
  - Hardware Implementation
  - Developer's Kit Block Diagram
  - Front and Back Panel Illustrations
  - Product Photos
- Purchasing a MSC-9710 and Software Development Kit
- How to obtain a MobileWeb
- Back to the CellPort Labs Homepage

Introduction

Developer's Kit

The CellPort Labs MSC-9710 MobileWeb Developer's Kit is a hardware/software platform designed to facilitate the efficient development of wireless data solutions based upon CellPort Labs' universal wireless connectivity and mobile networking technologies. The Kit provides:

- Hardware development platform
- Software development tools
- Developer's environment

MobileWeb: The Mobile Server/Controller

CellPort Labs' MobileWeb combines universal wireles connectivity with Internet access, creating a universal data interface that turns any vehicle into an untethered "Web site". This allows information to be shared easily between fixed and mobile platforms. From checking local traffic conditions to tracking a fleet of delivery trucks, MobileWeb provides an unlimited range of bi-directional data opportunities and applications utilizing Internet/Web and intranet networks.

This advancement is made possible through a combination of internal vehicular communications; wireless, voice and data connectivity, and Internet/Web networking, all handled by MobileWeb. Utilizing an embedded server/controller based on a

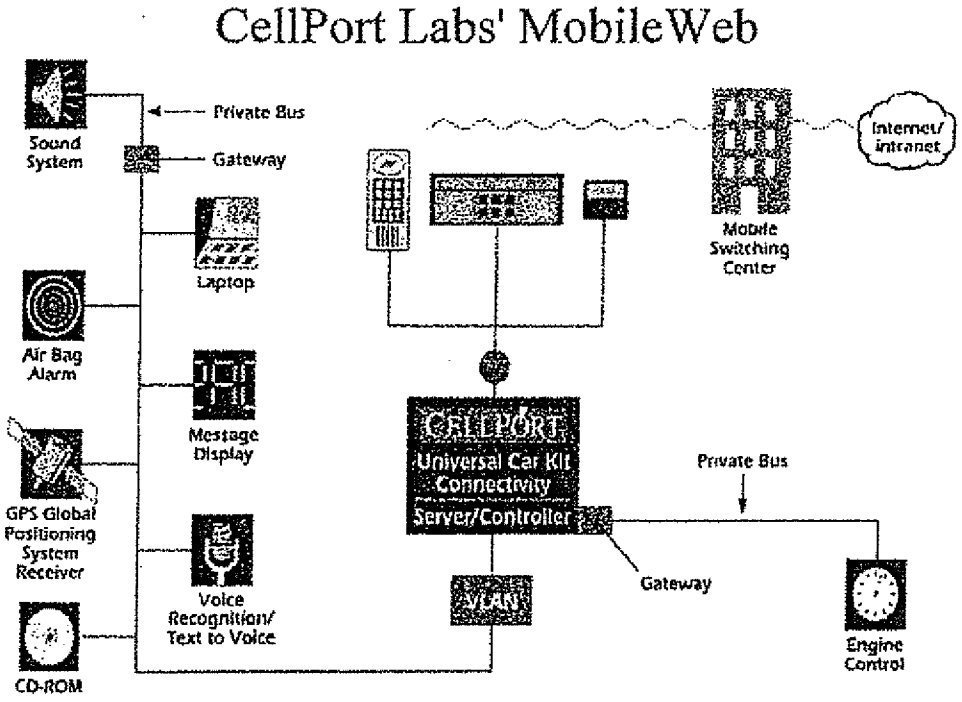
powerful pre-emptive multi-tasking operating system, MobileWeb links cellular, satellite, or PCS phones, independent of brand or airlink standard used, to the vehicle's multiple digital electronic devices. A variety of vehicular local area networks (VLANs) allows for bi-directional data communications between the vehicle and any public or private network.

Most importantly, by using TCP/IP and HTTP protocols, both standard Internet/Web protocols, MobileWeb drastically cuts application development time and costs, and opens a host of new mobile networking opportunities and applications. And since most business and government intranets take advantage of these same protocols, MobileWeb can add capabilities to their existing infrastructures, offering a viable way to enhance intranet functionality and efficiency without requiring large investments in hardware and applications development.

Unlimited Application Potential

Using the developer's kit, organizations can explore MobileWeb's unlimited application potential and create cost-effective prototypes. The kit provides multiple bus and multiple PC card interfaces to enhance development opportunities.

In addition to the many vehicular applications utilizing Internet connectivity and bidirectional data transmission, a wealth of portable applications requiring remote data acquisition and control are also possible, such as environmental monitoring, industrial processes and control, vending machine monitoring and agricultural applications.



- Airlink and Communication Device Independent
- Internet and Intranet Capable
- Bus Neutral
- Embedded or Non-Embedded Device Independent

Back to the top

Software

C/P Connect

C/P Connect is CellPort Labs' MobileWeb server/controller operating system. C/P Connect contains a set of core software features which come with the system. It can also be extended ot specific applications by programming the system using the CellPort Labs MSC-9710 MobileWeb Developer's Kit. The MSC-9710 is constantly undergoing performance enhancements and improvements.

Core Features

- C/P Connect is a real-time, multi-tasking, embedded operating system.
- For full connectivity to the Internet, a TCP/IP networking stack is provided.
- Supports CDPD cellular phones/modems and other wireless devices in connecting to the Internet. UDP is also available
- Supports the SLIP and PPP link layer services for connectivity to different Internet providers.
- Contains a HTTP 1.0 compatible Web Server including support for HTML FORMS for user input and server side include functions for specialized output processing.
- A FTP server is provided to download/upload new web pages and applications.
- A FTL file system is implemented in Flash memory for easy access to HTML web pages and for extension of the system.
- Supports PCMCIA flash memory cards.
- Different levels of security denies unauthorized access to system configuration and other sensitive pages.
- System management and configuration is accomplished through user-friendly FORMS based web pages.
- System management and configuration can be either accomplished through the Internet or via a directly attached laptop computer.
- A laptop computer can access the Internet via MobileWeb's universal wireless connectivity.
- Updates of the system software can easily be accomplished by uploading the new software and reprogramming the flash memory.

Using the Developer's Kit

The developer's kit is designed to allow easy customization. Developers can easily add new applications which are accessed through the Internet via web browsers. These applications might contain:

- New web pages.
- New server functions to process FORMS and server side include functions.
- New application tasks which monitor devices attached to MobileWeb.
- New device drivers.

In order to facilitate quick development of customer applications, CellPort Labs provides several libraries:

- APIs which help create new web-based applications.
- Common run time C functions (such as sprintf, memcpy, and strcpy).
- Pre-packaged serial device drivers and Controller Area Network device drivers.
- Card and Socket services are provided for development of PCMCIA drivers.

Development of new web pages can be done through one of the many commercially available web development tools, or with an ordinary text editor. Application development uses the commonly available MicroSoft Visual C++ compiler.

Newly developed code is easily uploaded to MobileWeb through a directly connected serial line.

Developer's Kit Requirements

There are three levels of developers for the C/P connect software. Each level requires more technical sophistication and development tools. All levels require the following:

- C/P Connect from CellPort Labs.
- MicroSoft Visual C++ Professional (Version 4 or higher).
- A PC capable of running Windows 95 (a Pentium/100 or better is recommended).
- A web browser (such as Navigatior or Explorer).
- A connection from the development PC to MobileWeb.

The three levels of developers and their specific requirements are:

Web Page Developer
This is the developer who wants to create web pages. This developer needs to be well-versed in HTML, CGI, and URI.
Application Developer
This is the developer who wants to communicate with a locally attached device, and control the device, or display the status of the device, through web pages. The locally attached device is attached via a CellPort Labs supplied driver (serial or CAN). This developer should be a systems programmer comfortable in programming multi-tasking systems in the C programming language. In addition to the tools listed above, this developer would need:

- Debugging version of C/P Connect.
- SoftScope debugger from Concurrent Sciences.
- MASM Assembler from MicroSoft.

Driver Developer
In addition to the applications, this developer wants to interface to a specialized PCMCIA card, CAN or ARCNET device. This developer should be a system programmer comfortable in programming systems in C, as well as in assembly language. In addition, the driver developer should have some background working with hardware devices, and should be familiar with PCMCIA hardware/software structure. The following development tools are helpful(in addition to the Application Developer's tools):

- promICE in-circuit ROM emulator (optional).
- C/P Connect Driver Developers Guide and libraries.

Back to the top

Hardware

Design Concepts

The CellPort Labs MSC-9710 MobileWeb Developer's Kit is a single-board computer that connects a variety of wireless interfaces to one or more vehicle buses. The MobileWeb server/controller contains a microprocessor, 2 Megabytes of RAM, and up to 8 Megabytes of Flash Memory to implement an in-vehicle server/controller with file system. It has six serial ports and two PCMCIA slots for connection to a wide variety of devices, both vehicular and wireless. There are also native CAN and ARCNET interfaces for device-specific connections. It is powered by unconditioned automobile voltage (10.5V to 16V DC).

Hardware Implementation

The MobileWeb server/controller is based on on Intel 386EX CPU and has the following features:

- 2 Megabytes Dynamic RAM. The interrupt vectors, any variables, and the stack are stored in RAM.
- 512 Kilobytes (512K x 8) FLASH EPROM. This is the Boot FLASH. On Power Up, the processor accesses the reset vector in the top word of this device. This is where the operational code and unique device I.D. are stored. A 32 pin PLCC socket is provided for this device, so that code updates, or an In Circuit ROM Emulator, can be place here.
- 2 Megabytes(1Mx16) of FLASH FILE EPROM. This is one of two Flash File devices. The Flash file is used to store records and applications. Optionally, a 2Mx16 FLASH can be inserted to give 4 Megabytes of Flash File EPROM.
- 2 Megabytes (1Mx16) of FLASH FILE EPROM. This is the other Flash File device. Optionally a 2Mx16 FLASH EPROM can be inserted to give 4 Megabytes of Flash File EPROM.
- Two Type 3 PCMCIA Slots with one socket per slot. The PCMCIA Controller is the Cirrus Logic CPLD6720. One slot is 5V only and the other has intelligence to detect low voltage cards.
- Six RS-232 serial ports, with speeds up to 120K baud. Two of the serial ports are embedded in the 386EX. The other four are implemented with the Texas Instruments TL16C554 Quad UART. The TL16C554 consists of four improved 16C550 UARTs with 16 Byte FIFOs on the receivers. The serial ports are connected to Dsub9 connectors on the back panel. The pinout is as follows:

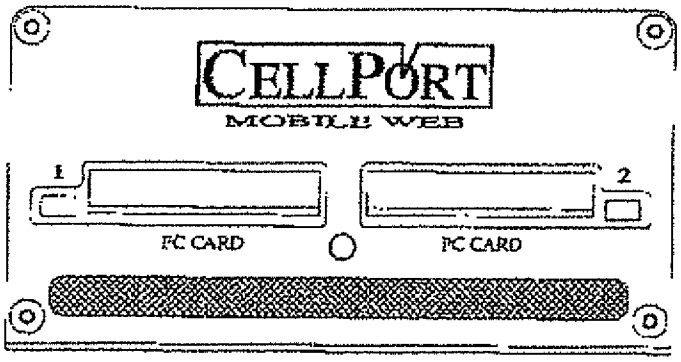
Data Carrier Detect	DCD	input	Pin 1
Receive Data	RXD	input	Pin 2
Trasmit Data	TXD	output	Pin 3
Data Terminal Ready	DTR	output	Pin 4
Ground	GND	--	Pin 5
Request to Send	RTS	output	Pin 7
Clear to Send	CTS	input	Pin 8

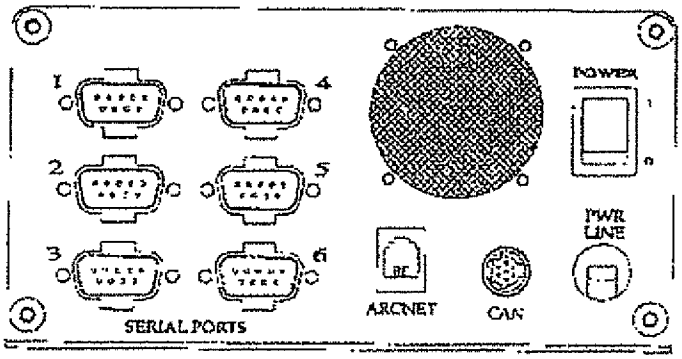
- A battery backed-up Real Time Clock (RTC) with 50 bytes of NVRAM utilizing the Dallas Semicondutor DS1286 RTC. It is interfaced as 64 RAM locations with 14 Bytes of clock and control registers, and 50 Bytes of general purpose Non-Volatile RAM.
- A CAN interface utilizing the Intel 82527 CAN Controller. The 82527 supports the standard and extended message frames in CAN Specification 2.0 Part B.
- An ARCNET interface utilizing the SMC COM20020 Universal Local Area Network Controller. The physical interface is an RS-485 tranceiver on an RJ11 connector.
- User selectable DIP Switch for custom setup.
- A Power On Reset generator and Power Fail interrupt based on the Maxim MAX707. The MAX707 generates an active low RESET-to the 386EX and peripherals when VCC drops below 4.7 Volts, and generates a 200 Msec RESET-on Power Up when VCC rises above 4.6 Volts. It also generates a Non Maskable Interrupt (NMI), when it detect the unregulated DC Power has dropped below 10.5 Volts, to provide an early warning of imminent power failure. The software then suspends all activity until power is restored. The 386EX also contains a Watch-Dog Timer that requires software toggling every 1.2 seconds. If the WDT is not toggled, the processor is Reset.
- A Three Ampere DC-DC switching power supply to convert from 10.6-20 Volts unregulated DC to 5.0 Volts for logic.
- A 300mA DC-DC switching power booster ot onvert from 5.0 Volts to 12V ± 5% for the PCMCIA slots and optionally the Flash Memory.
- The case is 6061 extruded aluminum with a black anodized finish. Its dimensions are:

Length	Width	Depth
6.15"	3.09"	8.0"
156.21mm	78.54mm	203.20mm

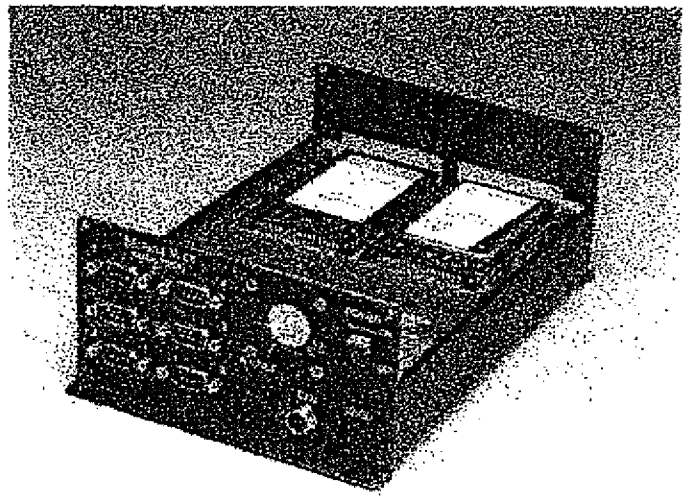
Developer's Kit Block Diagram

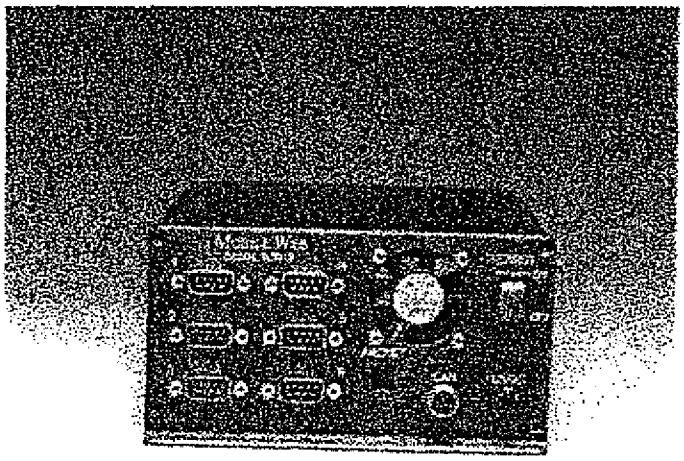
Front And Rear Panel Illustrations





Product Photos





Back to the top

Purchasing a MSC-9710 and Software Development Kit

Item	Price
MSC-9710	$695.00
SDK	$3000.00

Back to the top

How to Obtain a MobileWeb

CellPort Labs Contact Information:

CellPort Labs, Inc.
885 Arapahoe Avenue
Boulder, CO 80302
Tel (303)541-0722
Fax (303)541-0731
Email: patk@cellport.com

© 1996 CellPort Labs, Inc.

CellPort ® is a registered trademark of CellPort Labs, Inc.
MobileWeb™ and C/P Connect™ and trademarks of CellPort Labs, Inc.
MicroSoft®, Windows®, Windows 95®, and Explorer® are registered trademarks of MicroSoft Corporation.
Intel® is a registered trademark of Intel Corportion.
Navigator® is a registered trademark of Netscape, Inc.
TI® is a registered trademark of Texas Instruments, Inc.
Cirrus Logic® is a registered trademark of Cirrus Logic, Inc.
SoftScope® and CSiLocate® are registered trademarks of Concurrent Sciences Inc.
promICE® is a registered trademark of Grammer Engine, Inc.
Maxim™ is a registered trademark of Maxim, Inc.

Back to the top

Back to the CellPort Labs Homepage

ITEM 6

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of **KENNETH E. FLICK**	)	
	)	
Request for Reexamination of **U.S. PATENT NO.6,032,278**	)	
	)	
Control No. **90/013,851**	)	Attorney Docket No.: **C13-03895(58106CIP1_REX2)**
	)	
Confirmation No. **8717**	)	
	)	Examiner: **K. Reichle**
Filing Date: **OCTOBER 28, 2016**	)	
	)	Art Unit: **3992**
For: **VEHICLE TRACKING UNIT WTIH DOWNLOADABLE CODES AND ASSOCIATED METHODS**	)	

DECLARATION BY JOSEPH C. McALEXANDER, III UNDER 37 C.F.R. §1.132

I, the undersigned, hereby declare that:

I. Background

1. I am the Founder and President of McAlexander Sound, formerly IP Director of CCI and Vice President of EPI Technologies, Inc., and have 44 years of experience in microcircuit and semiconductor technologies, including: device design, fabrication, assembly, testing, and marketing, and control system design, analysis, quality, reliability, and defect/failure analysis at Texas Instruments.

2. I am a Registered Professional Engineer (#79454) in the State of Texas and hold a Bachelor of Science degree in Electrical Engineering from North Carolina State University.

3. I am an inventor on 31 U.S. patents and a number of foreign patents, and I am familiar with the patent process.

4. I have been an expert witness and technical consultant for the past 26 years in IP matters related to product/process analysis and investigation.

5. I prepared expert reports and provided trial testimony in the case of Omega Patents, LLC (the '278 Patent Owner) v. CalAmp Corp. (the Requester) that recently concluded in the Middle District of Florida (hereinafter referred to as the "CalAmp litigation"). In that CalAmp litigation, the '278 patent was asserted and determined by the jury to be not invalid, to be infringed by CalAmp, and that CalAmp acted despite an objectively high likelihood that its actions infringed a valid patent, and that this objectively high likelihood of infringement was either known or so obvious that it should have been known to CalAmp. (Jury Verdict, Exhibit 1). In the Court's Final Order of April 5, 2017 (Exhibit 2), the Court confirmed that the asserted claims were not invalid (including the claims of the '278 patent), and that CalAmp was a willful infringer. In the Court's Final Judgment (Exhibit 3), the Court awarded damages of $10,144,286.

6. I have been retained by the Patent Owner to provide technical consultation in the present reexamination of

the '278 patent, particularly with respect to addressing rejections based upon U.S. Patent No. 6,330,499 to Chou et al.

II. The '278 Patent and Current Office Action

7. I have extensively reviewed the '278 patent, along with its file history, and arguments advanced by Requester's trial expert, Mr. Andrews, as part of my work on behalf of the Patent Owner during the course of the CalAmp litigation. I have also reviewed the related litigation trial transcript and exhibits, and have reviewed the Court's Final Order of April 5, 2017, and Final Judgment of April 24, 2017.

8. I have reviewed the current Office Action dated March 29, 2017 for the reexamination of the '278 patent. In that Office Action, the claims were rejected as follows:

> Claims 1, 4-8, 11-12, 18-21 were rejected as anticipated by or, in the alternative, obvious over U.S. Patent No. 6,330,499 to Chou et al.
>
> Claims 9-10 and 22 were rejected over Chou et al. and U.S. Patent No. 6,028,537 to Suman et al.
>
> Claims 2-3 and 13-16 were rejected over Chou et al. and U.S. Patent No. 5,732,074 to Spaur et al.
>
> Claim 17 was rejected over Chou et al. and Suman et al. and Spaur et al.

9. Representative Claim 1 of the '278 patent is directed to a multi-vehicle compatible tracking unit for a

vehicle comprising a vehicle data bus extending throughout the vehicle. The multi-vehicle compatible tracking unit comprises a vehicle position determining device, a wireless communications device, and a multi-vehicle compatible controller for cooperating with the vehicle position determining device and the wireless communications device to send vehicle position information. The multi-vehicle compatible controller is to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles. The multi-vehicle compatible tracking unit comprises a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by the multi-vehicle compatible controller. Independent Claim 13 recites that the downloading interface includes a connector for temporary connection to a downloading device. Independent Claim 18 recites that the downloading interface includes a wireless receiver for temporary connection to a downloading device.

III. The Prior Art Analysis

10. I understand that Chou et al. discloses a system including a vehicle having an in-vehicle computing system, and a client computer device to enable vehicle health checkup and remote diagnostics. A communication link is for communicating vehicle information (e.g., vehicle identification number (VIN), diagnostic data, and the like). The vehicle location is established, for example by a device (e.g., antenna

or the like) for receiving positioning information. A remote service center is also provided having a diagnostic server, a help desk and a data repository. The help desk schedules services, orders parts, and dispatches assistance through the roadside assistance unit.

11. I understand that the vehicle bus interface of Chou et al. includes the following modules: "vehicle bus adapter 120C, fault detector 120B, and diagnostic data service 120A. The fault detector 120B polls the vehicle bus 104 through the vehicle bus adapter 120C checking for fault codes reported by the vehicle ECUs 103. The vehicle bus adapter 120C translates the messages received from the vehicle bus into the language of the fault detector. It also translates messages from the fault detector into the language of the vehicle bus. The fault code specifications and protocols of the vehicle may be Original Equipment Manufacturer (OEM) and model dependent. The term 'vehicle fault codes' is meant to be synonymous with the term 'trouble code' or 'diagnostic trouble code'." (Col. 4, lines 21-32).

12. I further understand that Chou et al. discloses that a "listing of such codes may be found in the publication of the Society of Automotive Engineers, 'SAE On-Board Diagnostics for Light and Medium Duty Vehicles Standards Manual'." (Col. 4, lines 33-36).

13. I have previously studied the SAE On-Board Diagnostics for Light and Medium Duty Vehicles Standards Manual, SAE HS-3000 (1997), identified in Chou et al., as part of my studies for related reexaminations (90/013,741 and 90/013,659). The SAE HS-3000 Manual provides that: "[c]urrently there is no uniformity in these numeric Diagnostic Trouble Codes (DTC) between manufacturers, and in some cases, even within the same manufacturer across different product lines." (SAE HS-3000, 1997, page 39).

14. I understand that the Examiner has interpreted the claimed downloading interface as structure "for permitting downloading of enabling data related to the at least one corresponding vehicle device code, e.g. vehicle device code or codes, an instruction to select a code or codes from among those already stored, or the data or sequence to allow the controller to generate the vehicle device code or codes, for use by said multi-vehicle compatible controller."

15. I understand that the Examiner contends that Chou et al. discloses an interface and wireless communication link structure that "permits downloading of enabling data, e.g. instruction to gather data, vehicle parameter update/change, related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller, e.g. steps 2-6 in Figure 5."

16. It is my opinion that one of ordinary skill in the art would recognize that Chou et al. fails to disclose the multi-vehicle compatible controller and downloading interface of the claimed vehicle tracking unit, as these claim recitations are interpreted by the Examiner.

17. It is my opinion that one of ordinary skill in the art would recognize that Chou et al. teaches away from the claimed invention. Chou et al. provides repeated disclosure that the diagnostic server at the remote service center permits multi-vehicle compatibility. See, for example, col. 5, lines 34-39; col 5, lines 53-58; col. 5, lines 61-64; col. 8, lines 19-21; and col. 9, lines 3-16.

IV. Evidence of Secondary Considerations

18. I submit that the person of ordinary skill in the art would not find it obvious to selectively modify Chou et al. Instead, it is my opinion that such a selective modification or combination would only be motivated by improper hindsight reconstruction – here about twenty years of hindsight.

19. I submit that merits of the claimed invention extend to providing multi-vehicle compatibility as described above. Accordingly, there exists evidence of secondary considerations of non-obviousness including:

a. The Jury Verdict, page 9, provides that others accepted licenses under the patents "because of the merits of the claimed invention."

b. I also understand that Omega has received in excess of $50 million in licensing revenue, much of it from the '278 patent and the other asserted patents in the CalAmp litigation. The Final Judgment adds another $10M to this amount.

c. The '278 patent is one of three patents asserted in the related litigation providing features for multi-vehicle compatibility as is important for the overall licensing program of the Patent Owner.

d. The Jury Verdict, page 9, includes the Jury's determination that the accused products were "commercially successful due to the merits of the claimed invention rather than due to advertising, promotion, salesmanship, or features of the product other than those found in the claim." And the Jury determined that the asserted claims of the '278 patent were infringed by each of the accused CalAmp devices. (Jury Verdict, Pages 5-6).

e. CalAmp's employees testified in the related litigation that the multi-vehicle compatibility provides for simplified installation in a vehicle, and avoids the need for separated stock keeping units (SKUs). Hall

deposition, 40:25 - 41:2; and Hergesheimer deposition, 43:3-16).

f. CalAmp telemetry devices have enjoyed significant commercial success having sold over 466,000 units of the accused products, earning over $4.1 million in gross profits based upon the financial Expert Report of Mr. Tregillis.

g. The Jury Verdict, on page 9, includes a finding that others copied the claimed invention.

h. The Court determined that "CalAmp was well aware of Omega's patents since at least 2010. Rather than take a license, and choosing not to design around Omega's patents, CalAmp elected to sell infringing products and continues to do so to this day. CalAmp's motivation to engage in this behavior is obvious: their customers wanted this technology, and CalAmp wanted to provide it." (Final Order, pg. 19).

i. The Accused Products in the CalAmp litigation were developed because of "customer need." (Hall deposition, 40:20-41:12; Hergesheimer deposition, 40:23-41:3.).

j. Further, the infringing CalAmp Products would have "limited value" if it were not for the multi-vehicle

compatibility. (Hergesheimer deposition, 46:25-47:169.).

20. I hereby declare further that all statements made herein are of my own knowledge and are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful and false statements may jeopardize the validity of the application or any patent issued thereon.

Joseph C. McAlexander, III

June 12, 2017
Date

ITEM 7

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

OMEGA PATENTS, LLC,

Plaintiff,

v. Case No: 6:13-cv-1950-Orl-40DCI

CALAMP CORP.,

Defendant.
_____/

FINAL JUDGMENT

This case was tried to a jury which returned a verdict in favor of plaintiff on February 24, 2016. On April 5, 2017, this Court granted in part and denied in part plaintiff's motion for entry of judgment but did not enter a form of judgment specifying its terms. This Final Judgment reflects the substance of that ruling.

Pursuant to Rule 58 of the Federal Rules of Civil Procedure, in accordance with the jury verdict delivered on February 24, 2016, and this Court's Orders, Final Judgment is hereby entered in favor of Plaintiff, OMEGA PATENTS, LLC, and against CALAMP CORP., as follows:

a. CALAMP CORP. willfully infringed OMEGA PATENTS, LLC's U.S. Patent No. 6,346,876, Claims 1, 3, 4, 5, 12, 14, and 16; U.S. Patent No. 6,756,885, Claims 1, 2, 3, 12, and 14; U.S. Patent No. 7,671,727, Claims 1, 10, and 11; and U.S. Patent No. 8,032,278, Claims 1, 2, 3, 4, 5, 6, 8, 11, 12, 13, 14, 16, 18, 19, and 21 (collectively, the claims of patents-in-suit);

b. The claims of the patents-in-suit have not been proven invalid or unenforceable;

c. The Court finds this to be an exceptional case and the amount of the damages awarded by the jury shall be trebled;

d. OMEGA PATENTS, LLC, shall be entitled to recover its reasonable attorneys' fees; and

e. The Court will not issue an injunction against further infringement.

Accordingly, it is hereby **ORDERED and ADJUDGED**:

1. Defendant CALAMP CORP. shall pay damages to OMEGA PATENTS, LLC, in the amount of $2,975,200.00, which shall be trebled, for a total amount of **$8,925,600.00**;
2. OMEGA PATENTS, LLC, shall be awarded prejudgment interest in the amount of $302.00 *per diem*, from the date of the verdict on February 24, 2016, to entry of this Final Judgment (393 days) for the total amount of **$118,686.00**;
3. By stipulation of the parties, the Court awards Reasonable Attorney's Fees and Costs to OMEGA PATENTS, LLC, in the amount of **$1,100,000.00**. CalAmp Corp. reserves the right to contest the amount of and/or entitlement to fees in the event that this Final Judgment is modified or overturned as a result of CalAmp Corp.'s motions for judgment as a matter of law and for a new trial, or on appeal.
4. The Court reserves jurisdiction to consider an ongoing royalty for any infringing sales after February 24, 2016. If the parties cannot agree on an appropriate procedure, the parties shall submit legal memoranda outlining any requested relief within thirty (30) days.
5. This Final Judgment incorporates all previous orders in the case. CalAmp Corp.'s agreement to the form of this Final Judgment shall not be construed as a waiver

of CalAmp Corp.'s right to appeal, or to file a renewed motion for judgment as a matter of law pursuant to Fed. R. Civ. P. 50 or a motion for new trial pursuant to Fed. R. Civ. P. 59. The time for filing such motions shall run from the date of the entry of this Final Judgment.

6. Plaintiff OMEGA PATENTS, LLC, shall be awarded Final Judgment in its favor, against Defendant CALAMP CORP., in the amount of **$10,144,286.00.**

FOR WHICH SUM, LET EXECUTION ISSUE.

DONE AND ORDERED in Orlando, Florida on April 24, 2017.

PAUL G. BYRON
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties

ITEM 8

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

OMEGA PATENTS, LLC,
a Georgia limited liability company,

Plaintiff,

v. Case No: 6:13-cv-1950-Orl-40DAB

CALAMP CORP.,
a Delaware corporation,

Defendant.

ORDER

This cause comes before the Court on the following:

1. Plaintiff's Motion for Claim Construction (Doc. 38), filed September 5, 2014;
2. Defendant Calamp Corp.'s Opening Claim Construction Brief (Doc. 39), filed September 5, 2014;
3. Plaintiff's Opposition to Calamp's Motion for Claim Construction (Doc. 40), filed October 3, 2014; and
4. Calamp Corp.'s Responsive Claim Construction Brief (Doc. 41), filed October 3, 2014.

The Court heard oral argument from the parties on November 24, 2014 (Doc. 46). At the conclusion of the hearing, the Court requested the parties to submit briefs addressing the issue of when and under what circumstances a claim should be construed by the Court. The parties filed briefs on this issue on December 12, 2014. (Docs. 48, 49). In total, the parties request the Court to construe eleven terms across five patents.[1]

---

[1] The patents-in-suit include U.S. Patent Nos. 6,346,876 (the "'876 Patent"); 6,737,989

I. BACKGROUND

Plaintiff, Omega Patents, LLC ("Omega"), initiated this patent infringement lawsuit on December 20, 2013 (Doc. 1). Omega then filed a Motion for Claim Construction requesting the Court to construe two claims. (Doc. 38). Defendant Calamp Corp. ("Calamp") filed a claim construction brief requesting the Court to construe nine claims. (Doc. 39). The parties have reached agreement on the construction of the following claim terms: "Controller" and "Multi-vehicle compatible controller." (Doc. 38, p. 1). All of the patents-in-suit were invented by Mr. Kenneth E. Flick, and the technologies at issue involve control systems for vehicles with a data communications bus, which is a computer network within a vehicle, and various codes, signals, and data which monitor particular vehicle characteristics and conditions and which perform or command certain functions, including the operation of certain vehicle devices.

II. LEGAL STANDARDS FOR CLAIM CONSTRUCTION

The Court construes a patent claim as a matter of law. *Markman v. Westview Instruments, Inc.*, 517 U.S. 370, 372 (1996). To construe a claim, the Court begins with the words of the claim itself. *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996). Generally, the Court accords the words of a claim "their ordinary and customary meaning," which is "the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention." *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–13 (Fed. Cir. 2005) (internal quotation marks omitted). Persons of ordinary skill in the art do not read the claim term in isolation, but in the context of the

(the "'989 Patent"); 6,756,885 (the "'885 Patent"); 7,671,727 (the "'727 Patent"); and 8,032,278 (the "'278 Patent"). (Doc. 38, p. 2).

entire patent. *Id.* at 1313. If the ordinary meaning of claim language is "readily apparent even to lay judges," then claim construction requires "little more than the application of the widely accepted meaning of commonly understood words." *Id.* at 1314. But because the meaning of a claim term as understood by a person skilled in the art is often not immediately apparent, the Court looks to both intrinsic evidence (the words of the claims themselves, the specification, and the prosecution history) and extrinsic evidence (sources such as dictionaries and expert testimony). *Id.*; *Finisar Corp. v. DirecTV Grp., Inc.*, 523 F.3d 1323, 1328 (Fed. Cir. 2008).

The patent's specification is "the single best guide to the meaning of a disputed term," as it may reveal that the patentee intended a special definition to apply to a claim term that differs from its ordinary meaning or that the patentee intentionally disclaimed or disavowed the claim's scope. *Phillips*, 415 F.3d at 1315–16 (internal quotation marks omitted). The Court also considers the prosecution history, which is created by the patentee in an attempt to explain and obtain the patent. *Id.* at 1317. The prosecution history consists of the complete record of proceedings before the Patent and Trademark Office ("PTO") and the prior art cited during the examination of the patent. *Id.* Unlike the specification, which is a final product, the prosecution history is less useful in claim construction because it represents the ongoing negotiations between the PTO and applicant. *Id.*

The Court also looks at the prosecution history "to determine whether the applicant clearly and unambiguously 'disclaimed or disavowed'" an interpretation of claim scope in order to obtain the patent grant. *Middleton, Inc. v. Minn. Mining and Mfg. Co.*, 311 F.3d 1384, 1388 (Fed. Cir. 2002) (quoting *Standard Oil Co. v. Am. Cyanamid Co.*, 774 F.2d

448, 452 (Fed. Cir. 1985)). A patentee disclaims an interpretation by "clearly characterizing the invention in a way to try to overcome rejections based on prior art," as opposed to simply describing features of the prior art without distinguishing the claimed invention based on those features. *Computer Docking Station Corp. v. Dell, Inc.*, 519 F.3d 1366, 1374–75 (Fed. Cir. 2008). Thus, the Court protects the public's reliance on the definitive statements made during the prosecution by precluding the patentee from "recapturing" through claim construction an interpretation disclaimed during prosecution. *Id.* at 1374 (quoting *Omega Eng'g, Inc. v. Raytek Corp.*, 334 F.3d 1314, 1323 (Fed. Cir. 2003)). However,

> [I]f the specification expressly defines a claim term and remarks made to distinguish claims from the prior art are broader than necessary to distinguish the prior art, the full breadth of the remark is not a clear and unambiguous disavowal of claim scope as required to depart from the meaning of the term provided in the written description.

Id. at 1375 (internal quotation marks omitted) (quoting *3M Innovative Props. Co. v. Avery Dennison Corp.*, 350 F.3d 1365, 1373 (Fed. Cir. 2003)).

Extrinsic evidence, such as expert testimony and dictionary definitions, is helpful but "less significant than the intrinsic record." *Phillips*, 415 F.3d at 1317 (internal quotation marks omitted). However, expert testimony about claim terms that is conclusory, unsupported or "clearly at odds" with the intrinsic evidence is not useful. *Id.* at 1318 (internal quotation marks omitted). Moreover, while dictionaries and treatises are relevant, the Court must ensure that the dictionary definition does not contradict a definition "found in or ascertained by a reading of the patent documents." *Id.* at 1322–23 (quoting *Vitronics*, 90 F.3d at 1584 n.6). "In sum, extrinsic evidence may be useful to the court, but it is unlikely to result in a reliable interpretation of patent claim scope unless considered in the

context of the intrinsic evidence." *Phillips*, 415 F.3d at 1319. In the instant case, the parties agree that the Court need not consider extrinsic evidence to construe the claim terms in dispute, and neither party has presented extrinsic for the Court's consideration.

Several other principles guide the Court's construction of claim terms. First, the Court presumes that the same terms appearing in different portions of the claims have the same meaning, unless the specification and prosecution history clearly demonstrate otherwise. *Fin Control Sys. Pty, Ltd. v. OAM, Inc.*, 265 F.3d 1311, 1318 (Fed. Cir. 2001). While the "[i]nterpretation of a disputed claim term requires reference to the other claims," *Georgia-Pacific Corp. v. U.S. Gypsum Co.*, 195 F.3d 1322, 1331 (Fed. Cir. 1999), "the presence of a dependent claim that adds a particular limitation raises a presumption that the limitation in question is not found in the independent claim." *Liebel-Flarsheim Co. v. Medrad, Inc.*, 358 F.3d 898, 910 (Fed. Cir. 2004). Courts are further cautioned that "a construction that renders the claimed invention inoperable should be viewed with extreme skepticism." *Talbert Fuel Sys. Patents Co. v. Unocal Corp.*, 275 F.3d 1371, 1376 (Fed. Cir. 2002) (citation omitted), *vacated and remanded on other grounds*, 537 U.S. 802 (2002).

Finally, district courts have an obligation to construe terms when it is necessary to resolve a genuine and material legal dispute between the parties. *See O2 Micro Int'l Ltd. v. Beyond Innovation Tech. Co., Ltd.*, 521 F.3d 1351, 1361–62 (Fed. Cir. 2008); *E-Pass Techs., Inc. v. 3Com Corp.*, 473 F.3d 1213, 1219 (Fed. Cir. 2007) ("[A]ny articulated definition of a claim term ultimately must relate to the infringement questions that it is intended to answer."). The party requesting the Court to construe a claim term must demonstrate that the construction is both necessary and correct; that is, construction of

the claim term must be fundamental to issues of infringement or invalidity, and the Court may not issue an advisory opinion. *IP Cleaning S.p.A. v. Annovi Reverberi S.p.A.*, No. 08-cv-147-bbc, 2008 U.S. Dist. LEXIS 102312, at *3 (W.D. Wisc. Dec. 17, 2008).

III. AGREED TERMS

As previously noted, the parties have reached an agreement as to the proper construction of the following two terms:

Claim Term	Agreed Construction
Controller	Electronic circuitry that performs one or more control functions.
Multi-vehicle compatible controller	Electronic circuitry that performs one or more control functions, and can operate with more than one vehicle.

IV. DISPUTED TERMS

Omega filed the initial Motion for Claim Construction, requesting the Court to construe two terms: "transmitter" and "receiver." (Doc. 38). Accordingly, the Court will construe these two claims prior to addressing Calamp's request for construction of nine additional terms.

A. The '876 and '885 Patent Terms: "Transmitter" and "Receiver"

Claim Term	Omega's Construction	Calamp's Construction
Transmitter	Radio frequency transmitter.	Device that sends signals.
Receiver	Radio frequency receiver.	Device that receives signals.

The terms "transmitter" and "receiver" are used in asserted claims of the '876 Patent (Doc. 39-1) and the '885 Patent (Doc. 39-2). Turning first to the construction of "transmitter," Calamp contends that the patents describe the transmitter as sending

signals without restricting the specific type of signals being sent—that is, without limiting the construction to require "radio frequency." (Doc. 39, p. 21). Calamp submits that the '876 and '885 Patents do not specifically define transmitter to limit the meaning of that term as commonly understood by individuals skilled in the art.[2] (*Id.* at p. 22). Similarly, Calamp contends that "receiver" is described in the patents as receiving signals and is not restricted to radio frequency signals. (*Id.* at p. 23).[3]

Omega submits that Calamp's construction and citation to the specifications of the '876 and '885 patents fail to place the terms "transmitter" and "receiver" into the context of the invention which Omega argues envisions remote control systems for a vehicle. (Doc. 38, p. 6). Omega proposes that the Court need only consider the claims, read in light of the specification, to comprehend that the invention focuses upon a remote control system for cars. (*Id.*). Omega directs the Court to the '551 Patent, noting that both the '876 and '885 Patents claim priority back to the '551 Patent. The Court agrees with Omega that both the '876 and '885 Patents are continuations-in-part and claim priority back to the '551 Patent. (*Id.* at p. 7). The background to the '551 Patent provides:

> The concepts and features of the invention may also be desirably incorporated in a remote control system for a vehicle, such as a vehicle security system, a remote engine starter system, or a remote keyless entry system, for example. The remote control system preferably comprises a remote transmitter and a receiver within the vehicle for receiving a signal from the remote transmitter.[4]

---

[2] Calamp directs the Court to the '876 Patent at 3:5–12; 3:63–4:9; 4:14–28; 4:33–36; 5:35–54; 5:55–6:2; 6:3–16; 6:17–27, and cites the '885 Patent at 3:5–12; 3:49–62; 4:5–8 4:9–24; 5:16–24; 5:35–62; 5:64–6:8. (Doc. 39, p. 22).

[3] Calamp cites the same specification language as was relied upon for its proposed construction of "transmitter."

[4] References to the column and lines within a given specification shall be denoted by the column number and line numbers. For example, column 1, lines 2–10 are denoted as 1:2–10.

(Doc. 38-3, 4:12–18).

As noted by counsel for Omega at the *Markman* hearing, Figure 1 of the '551 Patent depicts a remote transmitter/receiver, denoted as TX/RX (13), with an antenna (13a). (*Id.* at Fig. 1; 5:12–15). Similarly, Figure 2 of the '551 Patent also depicts a remote transmitter (57, 57a). (*Id.*, Fig. 2; 5:51–6:21). Figures 7, 8, and 9 of the '551 Patent also illustrate a radio frequency ("RF") transmitter and receiver and an antenna for communicating with various devices. [5] (*Id.*, Figs. 7–9, 8:1–35).

Omega next directs the Court to the abstract of the '876 Patent which describes "[a] control system [that] includes a transmitter and a receiver for receiving signals from the remote transmitter, and a multivehicle compatible controller cooperating with the transmitter and receiver." (Doc. 39-1). Similarly, the abstract of the '885 Patent describes the invention and states "[t]he approach is useful for a number of vehicle remote control functions including vehicle security, remote keyless entry and remote starting." (Doc. 39-2). While claim 1 of the '876 and '885 Patents do not describe the transmitter or receiver as remote, wireless, or receiving a RF signal, Omega correctly notes that no dependent claim in either patent limits the transmitter or receiver to a hardwired device. To the contrary, several dependent claims in the '876 and '885 Patents describe and discuss remote transmitters and receivers, including dependent claims 13–18 and 30–32 of the '876 Patent (Doc. 39-1) and claims 8, 12–15, 22–23, and 26–31 of the '885 Patent. (Doc. 39-2).

Based on the foregoing, the Court concludes that the dependent claims in the '876 and '885 Patents do not contain limitations or language requiring the Court to limit the

[5] Figures 1, 2, 7, 8, and 9 of the '551 Patent appear in Appendix A to this Order.

scope of the independent claims. Accordingly, the independent claims may properly be construed in the context of the patent specifications and in view of the '551 Patent to provide for remote control functions. Therefore, the Court construes the terms "transmitter" as **radio frequency transmitter** and the term "receiver" as **radio frequency receiver**, adopting the construction proposed by Omega.

B. The '876, '885, '727, and '278 Patent Terms: "Data Communication Bus/ Vehicle Data Communications Bus/ Vehicle Data Bus"

Claim Term	OMEGA's Construction	CALAMP's Construction
Data communication bus	*No construction needed; alternatively, it should be defined as follows:* Wired connection for communication of digital messages among vehicle devices, with each message including one or more device addresses	Wired connection for transferring data to and from vehicle devices

The term "data communication bus" is used in the '876 (Doc. 39-1) and '885 Patents (Doc. 39-2). The term "vehicle data communications bus" is used in the '727 Patent. (Doc. 39-3). The term "vehicle data bus" is found in the '278 Patent. (Doc. 39-4). Calamp asks the Court to construe these three sets of terms appearing in patents '876, '885, '727, and '278, arguing that construction is necessary to assist the jury.

Calamp contends that in all of the patents-in-suit, the data communication bus is described as a wired connection for transferring data to and from vehicle devices. (Doc. 39, p. 11). Calamp cites the '876 Patent specification which states, "Digital messages

are communicated to all modules over the data communications bus." (Doc. 39-1, 2:18–19). Calamp further refers the Court to the '885 Patent specification language which is identical to the '876 language. (Doc. 39-2, 2:18–19). Calamp also quotes the '278 Patent, which provides, "This and other objects, features, and advantages in accordance with the present invention are provided by a multi-vehicle compatible tracking unit for a vehicle comprising a *vehicle data bus extending throughout the vehicle.*" (Doc. 39-4, 2:50–53) (emphasis added). Finally, Calamp cites to the '727 Patent which similarly provides for a "vehicle data bus extending throughout the vehicle."[6] (Doc. 39-3, 2:44–45).

Omega submits that Calamp incorrectly seeks a construction which requires data transfer both to and from vehicle devices, whereas the patents-in-suit do not require two-way commands transferred on the bus. (Doc. 40, p. 4). Omega directs the Court to the plain language of claim 1 of the '876 Patent which provides, in pertinent part:

> 1. A control system for a vehicle comprising a data communications bus and at least one vehicle device connected to the data communications bus, the control system comprising:
>
> . . . .
>
> a multi-vehicle compatible controller at the vehicle and cooperating with said transmitter and receiver, said multi-vehicle compatible controller *generating at least one set of command signals on the data communications bus* for at least one vehicle device . . . .

(Doc. 39-1, 11:30–42) (emphasis added). Omega reasons that the plain language of claim 1 of the '876 Patent instructs the reader that at least one signal is generated, or sent, to at least one vehicle device. (Doc. 40, p. 5). The use of the term "generating" indicates

[6] The Court notes that none of the language cited by Calamp contained within the various patents-in-suit requires two-way communication of messages along the bus.

sending a signal and does not require a signal to be both sent to a device and received from a device.

When one considers the background to the invention, as stated in the '876 Patent, it is clear that a signal may be generated or sent along the bus to a vehicle device without a return signal being sent from the device to the bus. For example, the background to the '876 Patent states that an "alarm indication may typically be a flashing of the lights and/or the sounding of the vehicle horn or a siren." (Doc. 39-1, 1:35–37). Such an alarm may consist of a signal being generated and sent to the device without the device sending a return signal along the bus. One skilled in the art need only read the description of preferred embodiments for the '885 Patent to understand that the data communications bus controls complex and simple functions within the vehicle. "In other words, the vehicle devices connected to the data bus may be considered to be relatively simple devices, such as sensors, or more complicated devices with some internal processing, such as may generally be considered as controllers." (Doc. 39-2, 6:48–52). The simple devices, such as sensors, receive a signal generated and sent to the device without sending a reply to the controller. Accordingly, giving the words of the claim(s) their ordinary and customary meaning that the term would have to those skilled in the art, and taking the term within the context of the entire patent, the terms "data communications bus," "vehicle data communications bus," and "vehicle data bus" do not envision or require the transference of data "to and from" vehicle devices.

Calamp next proposes that Omega's insertion of device "addresses" in their proposed definition of the above terms is not supported by the patents-in-suit. (Doc. 39, p. 12). Calamp argues that the term "address" is an optional feature in the systems

described in the '876 and '885 Patents. (*Id.*). Calamp cites the '885 Patent specification to support this interpretation, which reads, "Each message *may* have one or more addresses associated with it so that the devices can recognize which messages to ignore and which messages to respond to or read." (Doc. 39-2, 2:20–22) (emphasis added). However, the Court finds that this quote is taken out of context. The context is found in the following excerpt:

> With multiplexing technology, the various electronic modules or devices may be linked by a single signal wire in a bus also containing a power wire, and one or more ground wires. Digital messages are communicated to all modules over the data communications bus. Each message may have one or more addresses associated with it so that the devices can recognize which message to ignore and which message to respond to or read.

(*Id.* at 2:16–22). Therefore, the word "may" cannot reasonably be interpreted to suggest that associating an address with a message is optional. Rather, each message will have at least one and perhaps multiple addresses associated with it, depending on the number of electronic modules or devices linked by the command bus. The Court finds that the presence of at least one address is fundamental to the functioning of the invention.[7]

Based on the foregoing, the Court construes the term "data communications bus" as used in the '876 (Doc. 39-1) and '885 Patents (Doc. 39-2), "vehicle data communications bus" as used in the '727 Patent (Doc. 39-3), and "vehicle data bus" as found in the '278 Patent, collectively "data communication bus" as follows: **"wired connection for communication of digital messages among vehicle devices, with each message including one or more device addresses."**

---

[7] While the '727 and '278 Patents do not specifically reference an address, one skilled in the art at the time of the invention would understand a vehicle data communications bus to require one or more addresses in order to control or read a device.

C. The '876, '885, '727, '278 Patent Term: "Vehicle Device"

Claim Term	OMEGA's Construction	CALAMP's Construction
Vehicle device	No construction needed	Electrical or electronic component in a vehicle that can be controlled and/or the status thereof read

Calamp contends the term "vehicle device" should be construed by the Court because the term is broad and susceptible to many meanings. (Doc. 39, p. 13). The parties agree that claim terms should be construed by the Court when it is necessary to resolve a genuine and material legal dispute between the parties or when necessary to aid the jury in understanding claim terms. Calamp's proposed construction of the term "vehicle device" is taken verbatim from the '876 and '885 Patents, with closely analogous language found in the '727 and '278 Patents. (*Id.*). Since Calamp's proposed construction of "vehicle device" is taken from the patents-in-suit, the Court need not construe the claim term. The definition is not in dispute, nor is additional construction necessary to aid the jury in understanding the claim term. Calamp's request to construe the term "vehicle device" is denied.

D. The '876 Patent Term: "Command Signal"

Claim Term	OMEGA's Construction	CALAMP's Construction
Command signal	*No construction needed; alternatively, it should be defined as follows:* Signal generated on the data communications	Signal generated on the data communications bus for operating a vehicle device to cause a desired function to be performed at the vehicle

	bus for operating a vehicle device	

The term "command signal" appears in claims of the '876 Patent. Calamp contends the '876 Patent, when read in its entirety, supports construction of the term "command signal" as requiring that the signal causes a desired function to be performed. (Doc. 39, p. 14). Calamp notes that the specifications include the following language: "will cause an operation or response from the vehicle device." (Doc. 39-1, 3:16–20). Defendant quotes portions of the specifications which state command signals may be "for operating" a specific vehicle device. (*Id.* at 3:39, 41–45; 5:45–49).

Omega submits that claim 1 of the '876 Patent clearly states that not every command signal will cause an operation or response from a vehicle device:

> 1. A control system for a vehicle comprising a data communications bus and at least one vehicle device connected to the data communications bus, the control system comprising:
>
> . . . .
>
> a multi-vehicle compatible controller at the vehicle and cooperating with said transmitter and receiver, said multi-vehicle compatible controller generating at least one set of command signals on the data communications bus for at least one vehicle device, the at least one set of command signals comprising at least *one working and at least one non-working command signal* for a given vehicle to thereby provide command compatibility with a plurality of different vehicles.

(*Id.* at 11:30–48) (emphasis added).

The claim makes it clear that the control system uses a working and non-working command signal because "multiple signals or codes can be generated on the data communications bus, and only that code for the *given vehicle and device* will cause an operation or response from the vehicle device." (*Id.* at 3:17–20) (emphasis added). Further, "an object of the invention [is] to provide a control system and related method for

a vehicle comprising a data communications bus and at least one vehicle device connected to the data communications bus, and wherein the system is *adapted to operate with different vehicles.*" (*Id.* at 2:66–3:4) (emphasis added). Since the system is designed to operate with a variety of vehicle platforms, not every signal generated on the data communications bus will cause a function to be performed. In order for a signal to cause a function to be performed, the signal must be received by a device contained within a compatible vehicle platform.[8] Accordingly, Calamp's proposed construction incorrectly includes within the definition of the "command signal" the requirement that a signal generated on the data communication bus must always cause a desired function to be performed.

Based on the foregoing, the Court construes "command signal" as follows: **"signal generated on the data communications bus for operating a vehicle device."**

E. The '876 and '885 Patent Term: "Device Code"

Claim Term	OMEGA's Construction	CALAMP's Construction
Device codes	*No construction needed; alternatively, it should be defined as follows:* Signal to or from a vehicle device	Signal from a vehicle device read on the vehicle bus. *Amended at the Markman hearing as follows:* Signal from a vehicle device read on the vehicle bus and/or stored in the controller

Calamp asserts that the '876 and '885 Patents describe "device code" as a signal from a vehicle device that is read on the vehicle bus. (Doc. 39, p. 15). Calamp's

[8] "In other words, multiple signals or codes can be generated on the data communications bus, and only that code for the given vehicle will cause an operation or response from the vehicle device." (Doc. 39-2, 7:31–34).

proposed construction is based on select language from the '876 and '885 Patents. For example, both the '876 and '885 Patents discuss "reading a device code *from* the data communications bus." (Doc. 39-1, 9:22–23; Doc. 39-2, 3:12-13) (emphasis added). The complete text of the specification is, as always, helpful in construing the claim terms:

> More particularly, the multi-vehicle compatible controller is for storing a set of device codes for a given vehicle device for a plurality of different vehicles, for reading a device code from the data communications bus, and for determining a match between a read device code and the stored device codes to thereby provide compatibility with a plurality of different vehicles.

(Doc. 39-1, 9:19–25).

The '885 Patent further elaborates upon the manner in which the multi-vehicle compatible controller functions:

> Moreover, the multi-vehicle compatible controller is also for storing a set of device codes for a given vehicle device for a plurality of different vehicles, for reading a device code from the data communications bus, and for determining a match between a read device code and the stored device codes to thereby provide compatibility with a plurality of different vehicles.

(Doc. 39-2, 3:10–16). Both of these patents clearly state that when a device code is read, it is read "from" the data communications bus and not "on" the vehicle bus. To the extent Calamp's proposed construction describes the signal from the vehicle device as being read "on" the vehicle bus, the claims and specifications of the pertinent patents contradict this interpretation.

The next issue is whether the device codes travel "from" a vehicle device, as Calamp contends, or travels "to and from" a vehicle device, as Omega suggests. As previously discussed, the relevant specifications state: "[T]he multi-vehicle compatible controller is also for storing a set of device codes for a given vehicle device for a plurality

of different vehicles, for reading a device code from the data communications bus [and determining whether a match exists] . . . ." (*Id.*). The specifications, therefore, certainly state that device codes, or signals, are stored on the multi-vehicle compatible controller, and codes received from the data communications bus can be read to determine if the stored code matches the code received from the data communications bus. The claims and specifications do not describe any scenario wherein the device code is a signal sent "to" a vehicle device, which appears to be accomplished by command signals. Omega does not direct the Court to any intrinsic evidence to support its contention that a device code, or signal, travels both to and from a vehicle device.

Based on the foregoing, the Court agrees with Calamp that the claims and specifications of the pertinent patents-in-suit describe "device codes" as **signal from a vehicle device.** The Court, however, declines to adopt Calamp's construction to the extent it describes device codes as being "read on the vehicle bus." The description proffered by Calamp is contradicted by the clear wording of the claims and specifications, which state the signal or code is read "from" the bus and not "on" the bus. Additionally, Calamps's construction focuses on the signal being "read" and fails to address the storage of device codes and the comparison of stored codes to codes received from the communications bus. The Court finds it is not necessary to include a partial description of how device codes are utilized by the multi-vehicle compatible controller, because the ordinary meaning of the claim language relative to the uses made of the device codes is readily apparent to those skilled in the art.

Thus, the term "device codes" is construed by the Court to mean: **"signal from a vehicle device."**

F. The '885 Patent Term: "Function"

Claim Term	OMEGA's Construction	CALAMP's Construction
Function	*No construction needed; alternatively, it should be defined as follows:* An operation of a vehicle device	An operation of a vehicle device, such as remote starting the engine, remotely unlocking the vehicle doors, or changing the mode of a security system between armed and disarmed

Calamp contends that the definition of the term "function" found in claim 24 of the '885 patent should be limited to the three embodiments identified in Calamp's proposed claim construction. (Doc. 39, p. 17). Omega asserts the term "function" does not require construction because the ordinary meaning of the claim language is readily apparent to persons of ordinary skill in the art and even to lay judges. (Doc. 40, pp. 9–10). The Court agrees that the claim language is sufficiently clear and unambiguous to enable an individual of ordinary skill in the art, as well as lay judges, to apply the language in the context of this litigation.

The patent states the invention may be embodied in "many different forms and should not be construed as limited to the illustrated embodiments set forth herein." (Doc. 39-2, 4:63–65). The term "function" is self-evident from the context of the list of embodiments:

> The second transmitter/receiver pair may be used to cause a *desired function* to be performed at the vehicle, such as remote starting the engine, remotely unlocking the vehicle doors, or changing the mode of a security system between armed and disarmed modes, for example. Many other similar applications are contemplated by the present invention as will be appreciated by those skilled in the art.

(*Id.* at 5:24–31) (emphasis added). Clearly, a function is the operation of one of the vehicle devices. Accordingly, the Court declines to construe this term.

G. The '727 Patent Term: "Remote Vehicle Speed Exceeded Notification"

Claim Term	OMEGA's Construction	CALAMP's Construction
Remote vehicle speed exceeded notification	*No construction needed; alternatively, it should be defined as follows:* Notification sent when a vehicle speed exceeds a speed threshold for a first time period	A message sent from a vehicle indicating that the vehicle speed has exceeded a particular speed

The term "remote vehicle speed exceeded notification" is found in the '727 Patent. Calamp proposes a construction of the term which emphasizes that the message indicating that a preset speed has been exceeded is sent "from" the vehicle. (Doc. 39, p. 18). Calamp asserts that the patent, and Omega's proposed construction, fail to state that the message originates from within the vehicle. (*Id.*). Omega argues that no construction is required because the ordinary meaning of the claim language is readily apparent. (Do. 40, p. 11). The Court agrees with Omega and finds that the term "remote vehicle speed exceeded notification" does not require construction or clarification.

Claim 1 of the '727 Patent clearly identifies that the speed exceeded notification device includes "at least one vehicle device *generating* data related to vehicle speed." (Doc. 39-3, 7:6–7) (emphasis added). Therefore, the message is clearly sent from the vehicle, where the vehicle devices reside. The claim language further states that the

device determines "when a vehicle speed exceeds a speed threshold *for the first time period*" and sends a remote vehicle speed exceeded notification. (*Id.*) (emphasis added). That is, a device internal to the vehicle sends the notification outside of the vehicle. To the extent the patent provides for multiple speed exceeded notifications being sent from the vehicle, the claim language clearly addresses the manner in which this is accomplished. (*Id.* at 7:18–22, 27–29).

Based on the foregoing, the Court declines Calamp's request for construction of the term "remote vehicle speed exceeded notification."

H. The '278 Patent Term: "Downloading Interface"

Claim Term	OMEGA's Construction	CALAMP's Construction
Downloading interface	No construction needed	Connection that can receive data

Calamp asserts that the term "downloading interface" is unclear and may result in jurors concluding the term involves a software interface for downloading or some other type of interface. (Doc. 39, p. 19). Calamp contends that the patent describes the downloading interface as "hardware" or a connection to the tracking unit. (*Id.*). However, the plain language of the patent describes downloading interface more broadly. The patent provides the following variety of methods for data to be received from the downloading interface:

> The downloading interface may comprise either a wired or wireless signal downloading interface. The wired signal downloading interface may comprise a connector for temporary connection to a downloading device, for example. The wireless signal downloading interface may include a wireless receiver for temporary connection

> to a downloading device . . . . The downloading interface may also be for permitting downloading of at least one programming instruction for the multi-vehicle compatible controller, in some embodiments.

(Doc. 39-4, 3:4–16). The summary of the invention, cited above, tracks the language found in claims 1, 2, 4, and 8. (*Id.* at 25:63–26:39).

The ordinary meaning of "download interface" is readily apparent to persons of ordinary skill in the art. To the extent one may desire additional context for the term "downloading interface," that context is found in the background and summary of the invention. The background statement provides, "For a company with hired drivers, it may be desirable to know the driver's whereabouts during the course of the day. Similarly, a rental car agency or other fleet operator, for example, may wish to know the whereabouts of its fleet of vehicles." (*Id.* at 1:37–41). To facilitate these objectives, the summary of the invention informs the reader that, "[t]he tracking unit may also include a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code . . . ." (*Id.* at 2:63–66). The embodiment section of the patent further educates the reader that data received via the downloading interface may provide a number of pieces of information regarding the vehicle, including whether the vehicle is being moved by an unauthorized driver, whether the vehicle is being broken into, whether the vehicle is being driven in excess of an authorized speed, and the like. (*Id.* at 11:36–12:10).

Accordingly, the ordinary meaning of the language of the patent, including the term downloading interface, instructs the reader, including lay judges and jurors, of the type of data transmitted from the vehicle device and the manner of its transmission: wired,

wireless, and for permitting downloading of at least one programming instruction, for example. A downloading interface is, therefore, not limited to a hardwired connection.

Based on the foregoing, the Court declines to construe the term "downloading interface."

I. The '278 Patent Term: "Enabling Data"

Claim Term	OMEGA's Construction	CALAMP's Construction
Enabling data	*No construction needed; alternatively, it should be defined as follows:* Data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller	A vehicle device code or codes, and instruction to select a code or codes, or the data or sequence to allow the controller to generate a vehicle device code or codes

The term "enabling data" appears in the '278 Patent. (Doc. 39-4). Calamp avers that the term lacks any common meaning or specific structure to one of ordinary skill in the art and should be construed. (Doc. 39, p. 20). Calamp acknowledges the term enabling data is referenced in several places, but submits the term is not defined other than at column 24, lines 8–12 of the '278 Patent. (*Id.*) The specification provides, in pertinent part:

> The multi-vehicle compatible tracking unit also illustratively includes a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by the multi-vehicle compatible controller. The enabling data may be the vehicle device code or codes, an instruction to select a code or codes from among those already stored, or the data or sequence

> to allow the controller to generate the vehicle device code or codes, for example.

(Doc. 39-4, 24:4–12). Other references to "enabling data" include references to figures within the patent, stating, "Enabling data related to at least one corresponding vehicle device code for use by the multi-vehicle compatible controller is downloaded via a downloading interface." (*Id.* at 25:14–16).

Calamp suggests that any construction of enabling data should be limited to claim 1 of the '278 Patent (Doc. 39-4, 26:13–15), which provides, in part, "[E]nabling data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller." (Doc. 40, p. 13). Omega objects to Calamp's inclusion of some of the preferred embodiments into their proposed definition, citing *Northern Telecom Ltd. v. Samsung Elecs. Co.*, 215 F.3d 1281, 1293 (Fed. Cir. 2000) ("This court consistently declines to construe claim terms according to the preferred embodiment."). The Court agrees that Calamp's proffered construction improperly restricts or narrows the scope of this term.

Based on the foregoing, the Court construes the term "enabling data" as follows: **data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller.**

J. The '278 Patent Term: "Programming Instruction"

Claim Term	OMEGA's Construction	CALAMP's Construction
Programming instructions	No construction needed	Code which instructs the controller to perform an operation

The term "programming instructions" is found in the '278 Patent. (Doc. 39-4). Calamp submits that this term should be construed by the Court because the term is susceptible to multiple meanings. (Doc. 39, p. 21). Omega advised the Court during the *Markman* hearing that it does not object to Calamp's proposed construction. The Court therefore adopts Calamp's proposed construction.

V. CONCLUSION

The Court adopts the following constructions:

CLAIM TERM	AGREED CONSTRUCTION
Controller	Electronic circuitry that performs one or more control functions.
Multi-vehicle compatible controller	Electronic circuitry that performs one or more control functions, and can operate with more than one vehicle.

[ORDER CONTINUES ON FOLLOWING PAGE]

CLAIM TERM	COURT'S CONSTRUCTION
Transmitter	Radio frequency transmitter.
Receiver	Radio frequency receiver.
Data communication bus/ vehicle data communications bus/ vehicle data bus	Wired connection for communication of digital messages among vehicle devices, with each message including one or more device addresses.
Vehicle device	Plain meaning
Command signal	Signal generated on the data communications bus for operating a vehicle device.
Device codes	Signal from a vehicle device.
Function	Plain meaning
Remote vehicle speed exceeded notification	Plain meaning
Downloading interface	Plain meaning
Enabling data	Data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller.
Programming instructions	Code which instructs the controller to perform an operation.

DONE AND ORDERED in Orlando, Florida on February 20, 2015.

PAUL G. BYRON
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record

APPENDIX A

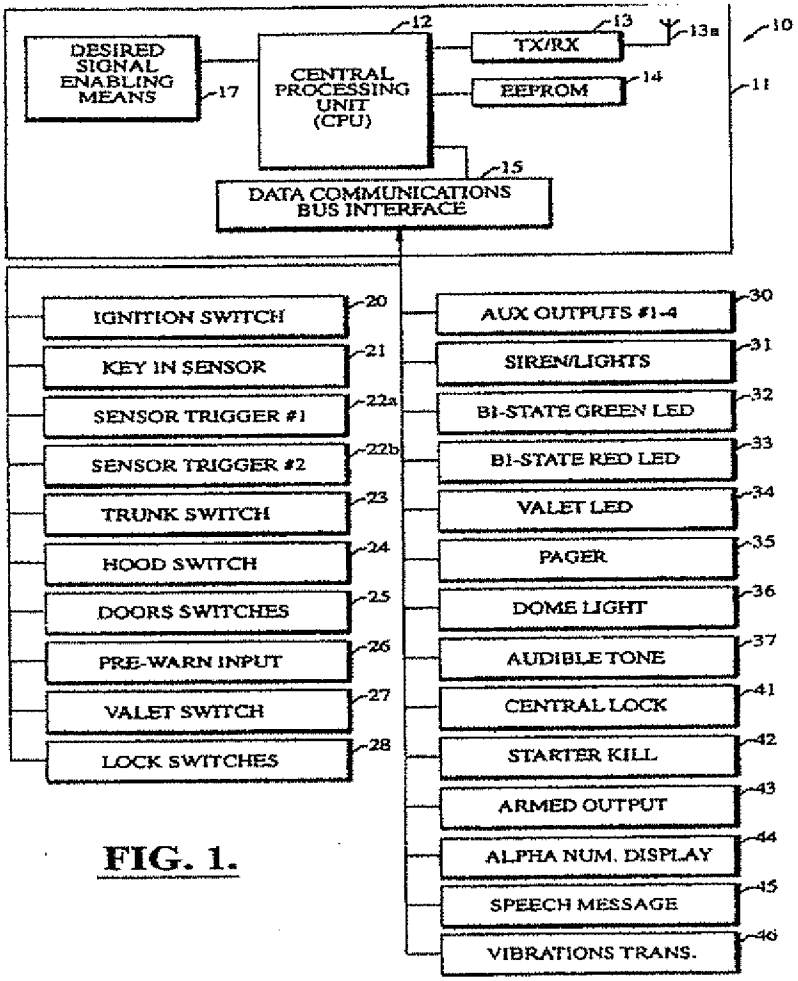


FIG. 1.

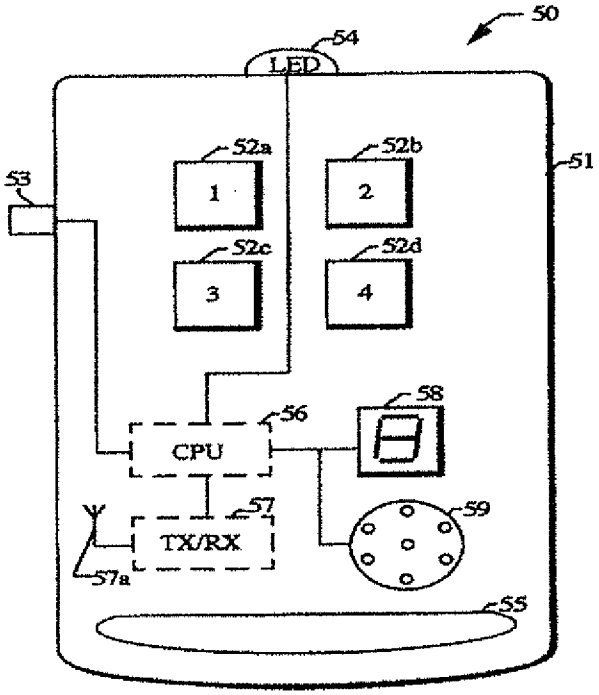

50
54
LED
52a
1
52b
2
53
51
52c
3
52d
4
58
56
CPU
57
TX/RX
57a
59
55

FIG. 2.

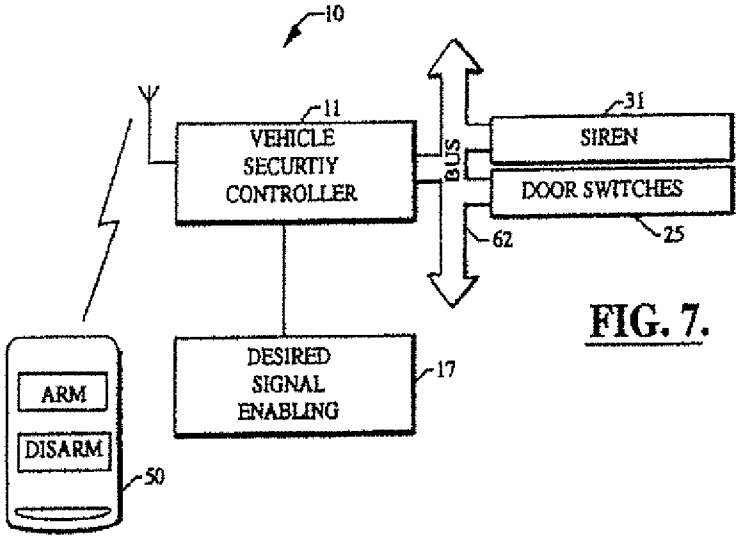

10
11
VEHICLE
SECURITY
CONTROLLER
BUS
31
SIREN
DOOR SWITCHES
25
62
DESIRED
SIGNAL
ENABLING
17
ARM
DISARM
50

FIG. 7.

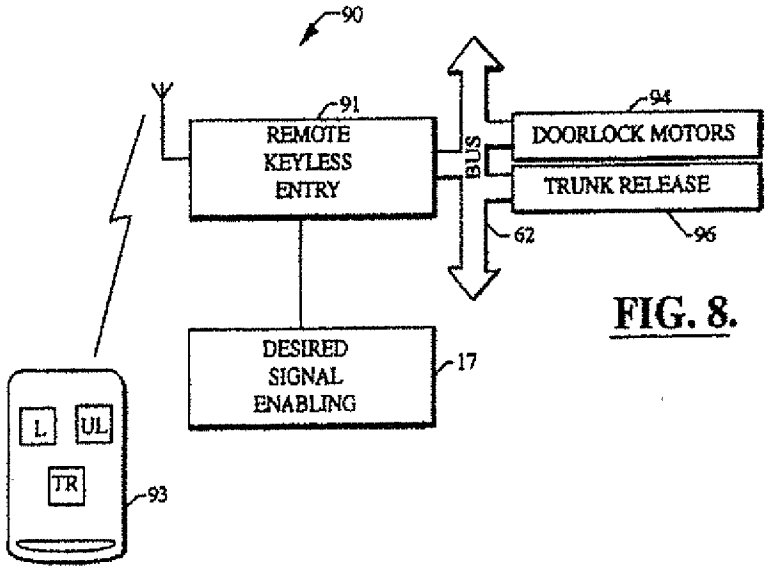

90
91
REMOTE KEYLESS ENTRY
BUS
94
DOORLOCK MOTORS
TRUNK RELEASE
96
62
DESIRED SIGNAL ENABLING
17
L
UL
TR
93

FIG. 8.

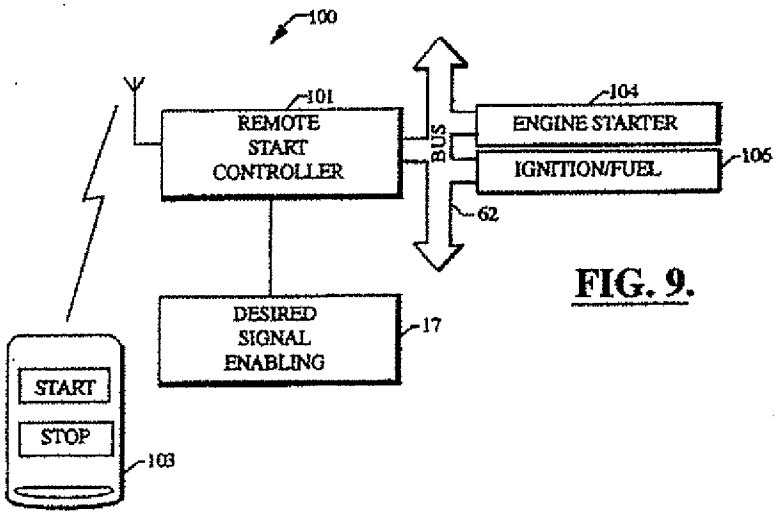

100
101
REMOTE START CONTROLLER
BUS
104
ENGINE STARTER
IGNITION/FUEL
106
62
DESIRED SIGNAL ENABLING
17
START
STOP
103

FIG. 9.

ITEM 9

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/013,587	09/14/2015	8032278	C13-03895	8867

7590 12/01/2016

CHRISTOPHER R. REGAN, ESQ.
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, PA
P O BOX 3791
ORLANDO, FL 32802-3791

EXAMINER
GRAHAM, MATTHEW C

ART UNIT	PAPER NUMBER
3993	

MAIL DATE	DELIVERY MODE
12/01/2016	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DO NOT USE IN PALM PRINTER

(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

KPPB LLP

2400 EAST KATELLA AVENUE

SUITE 1050

ANAHEIM, CA 92806

EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. *90/013,587*.

PATENT NO. *8032278*.

ART UNIT *3993*.

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

PTOL-465 (Rev.07-04)

Notice of Intent to Issue Ex Parte Reexamination Certificate	Control No.	Patent Under Reexamination	
	90/013,587	8032278	
	Examiner	Art Unit	AIA (First Inventor to File) Status
	MATTHEW C. GRAHAM	3993	No

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☒ Prosecution on the merits is (or remains) closed in this *ex parte* reexamination proceeding. This proceeding is subject to reopening at the initiative of the Office or upon petition. *Cf.* 37 CFR 1.313(a). A Certificate will be issued in view of
   (a) ☒ Patent owner's communication(s) filed: *7/6/2016*.
   (b) ☐ Patent owner's failure to file an appropriate timely response to the Office action mailed: _____.
   (c) ☐ Patent owner's failure to timely file an Appeal Brief (37 CFR 41.31).
   (d) ☐ The decision on appeal by the ☐ Board of Patent Appeals and Interferences ☐ Court dated _____
   (e) ☐ Other: _____.
2. The Reexamination Certificate will indicate the following:
   (a) Change in the Specification: ☐ Yes ☒ No
   (b) Change in the Drawing(s): ☐ Yes ☒ No
   (c) Status of the Claim(s):
      (1) Patent claim(s) confirmed: *1-22*.
      (2) Patent claim(s) amended (including dependent on amended claim(s)): _____
      (3) Patent claim(s) canceled: _____.
      (4) Newly presented claim(s) patentable: _____.
      (5) Newly presented canceled claims: _____.
      (6) Patent claim(s) ☐ previously ☐ currently disclaimed: _____
      (7) Patent claim(s) not subject to reexamination: _____.
3. ☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.
4. ☒ Note the attached statement of reasons for patentability and/or confirmation. Any comments considered necessary by patent owner regarding reasons for patentability and/or confirmation must be submitted promptly to avoid processing delays. Such submission(s) should be labeled: "Comments On Statement of Reasons for Patentability and/or Confirmation."
5. ☐ Note attached NOTICE OF REFERENCES CITED (PTO-892).
6. ☐ Note attached LIST OF REFERENCES CITED (PTO/SB/08 or PTO/SB/08 substitute).
7. ☐ The drawing correction request filed on _____ is: ☐ approved ☐ disapproved.
8. ☐ Acknowledgment is made of the priority claim under 35 U.S.C. § 119(a)-(d) or (f).
   a)☐ All b)☐ Some* c)☐ None of the certified copies have
   ☐ been received.
   ☐ not been received.
   ☐ been filed in Application No. _____.
   ☐ been filed in reexamination Control No. _____.
   ☐ been received by the International Bureau in PCT Application No. _____.

   * Certified copies not received: _____.
9. ☐ Note attached Examiner's Amendment.
10. ☐ Note attached Interview Summary (PTO-474).
11. ☐ Other: _____.

All correspondence relating to this reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of this Office action.

cc: Requester (if third party requester)

NIRC

STATEMENT OF REASONS FOR PATENTABILITY AND/OR CONFIRMATION

1. The following is an examiner's statement of reasons for patentability and/or confirmation of the claims found patentable in this reexamination proceeding: the Examiner agrees that the declarations by Suman and McAlexander provide sufficient evidence that Suman and Spaur each fail to disclose the multi-vehicle compatible controller as recited in independent claims 1, 13 and 18. Claims 2-12, 14-17 and 19-22 are considered to be patentable due to their dependency on claims 1, 13 and 18, respectively.

Any comments considered necessary by PATENT OWNER regarding the above statement must be submitted promptly to avoid processing delays. Such submission by the patent owner should be labeled: "Comments on Statement of Reasons for Patentability and/or Confirmation" and will be placed in the reexamination file.

2. Any inquiry concerning this communication should be directed to Matthew C. Graham at telephone number 571-272-7116.

Please mail any communications to:

Attn: Mail Stop "Ex Parte Reexam"
Central Reexamination Unit
Commissioner for Patents
P. O. Box 1450
Alexandria VA 22313-1450

Please FAX any communications to:

(571) 273-9900
Central Reexamination Unit

Please hand-deliver any communications to:

Customer Service Window
Attn: Central Reexamination Unit
Randolph Building, Lobby Level
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Reexamination Legal Advisor or Examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7705.

Signed:

/Matthew C. Graham/

Matthew C. Graham
CRU Examiner
3993
(571) 272-7116

Conferees: /GAS/
/PCE/

Electronic Acknowledgement Receipt

EFS ID:	31898461
Application Number:	90013851
International Application Number:	
Confirmation Number:	8717
Title of Invention:	Vehicle Tracking Unit with Downloadable Codes and Associated Methods
First Named Inventor/Applicant Name:	8032278
Correspondence Address:	CHRISTOPHER F. REGAN, ESQUIRE ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A. P. O. BOX 3791 - ORLANDO FL 32802-3791 US 407-841-2330 -
Filer:	Jack G. Abid/sheryllee scheibe
Filer Authorized By:	Jack G. Abid
Attorney Docket Number:	C13-03896.RE2
Receipt Date:	27-FEB-2018
Filing Date:	28-OCT-2016
Time Stamp:	12:27:04
Application Type:	Reexam (Patent Owner)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		ss58106cip1rex2supamd.pdf	6529550 059c27d81cc351483fb72e19b9233bb4fb2d2431	yes	210

Multipart Description/PDF files in .zip description

Document Description	Start	End
Appeal Brief-Owner	1	71
Miscellaneous Incoming Letter	72	82
Miscellaneous Incoming Letter	83	101
Miscellaneous Incoming Letter	102	125
Miscellaneous Incoming Letter	126	133
Miscellaneous Incoming Letter	134	160
Miscellaneous Incoming Letter	161	171
Miscellaneous Incoming Letter	172	175
Miscellaneous Incoming Letter	176	204
Miscellaneous Incoming Letter	205	210

Warnings:

The page size in the PDF is too large. The pages should be 8.5 x 11 or A4. If this PDF is submitted, the pages will be resized upon entry into the Image File Wrapper and may affect subsequent processing

Information:

Total Files Size (in bytes):	6529550

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/013,851	10/28/2016	8032278	C13-03896.RE2	8717

7590 05/14/2018

CHRISTOPHER F. REGAN, ESQUIRE
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
P. O. BOX 3791
ORLANDO, FL 32802-3791

EXAMINER
REICHLE, KARIN M

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
05/14/2018	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DO NOT USE IN PALM PRINTER

(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

KPPB LLP

2400 EAST KATELLA AVENUE
SUITE 1050
ANAHEIM, CA 92806

EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. *90/013,851*.

PATENT NO. *8032278* .

ART UNIT *3992*.

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

Karin M. Reichle

Primary Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 90/013,851
Filing Date: October 28, 2016
Appellant(s): 8032278

Jack G. Abid
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed February 27, 2018.

(1) Grounds of Rejection to be Reviewed on Appeal

Every ground of rejection set forth in the Office action dated July 19, 2016 from which the appeal is taken is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

The following ground(s) of rejection are applicable to the appealed claims.

Claim(s) 1, 4-8, 11-12, and 18-21 are rejected under pre-AIA 35 U.S.C. 102(b) as anticipated by or, in the alternative, under pre-AIA 35 U.S.C. 103(a) as obvious over U.S. Patent No. 6,330,499 to Chou et al (hereinafter also referred to as '499 or Chou).

See attached Appendix A, pages 30-42 *infra.*

Claims 9-10 and 22 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,330,499 to Chou et al (hereinafter also referred to as '499 or Chou) in view of U.S. Patent No. 6,028,537 to Suman et al, (hereinafter also referred to as '537 or Suman).

See attached Appendix A, pages 42-45 *infra*.

Claims 2-3 and 13-16 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,330,499 to Chou et al (hereinafter also referred to as '499 or Chou) in view of U.S. Patent No. 5,732,074 to Spaur et al (hereinafter also referred to as '074 or Spaur).

See attached Appendix A, pages 46-49 *infra*.

Claim 17 is rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,330,499 to Chou et al (hereinafter also referred to as '499 or Chou) in view of U.S. Patent No. 6,028,537 to Suman et al, (hereinafter also referred to as '537 or Suman) and U.S. Patent No. 5,732,074 to Spaur et al (hereinafter also referred to as '074 or Spaur).

See attached Appendix A, pages 49-50 *infra*.

(2) Response to Argument

As an initial matter, Appellant's remarks with regard to evidence not admitted into the record (see, e.g., pages 1-2, page 3, "(5) Evidence Improperly Refused Admission Into the Record ..... 16", page 5, "37 C.F.R. §1.116(e)…15[sic]", pages 16-19, "(5) Evidence Improperly Refused Admission Into the Record", paragraph bridging pages 53-54 of "2. Nexus for Secondary Considerations of Non-Obviousness"), such remarks relate to issues which are petitionable not appealable. Accordingly such remarks have not been further addressed.

Continuing, Appellant's discussion of Related Appeals, Interferences and Trials, pages 7-12, including Evidence Appendix Items 1-3, has been noted.[1]

Appellant's discussion of the Chou reference and claim 1 on pages 19-26 have been noted in their entirety.[2] The discussion is substantially the same as that set forth in the remarks of 9/18/2017 and 6/12/17. Specifically:

[1] Regarding Appellant's parenthetical in Item 2 on page 71, it is noted that the referenced ruling was rendered on November 14, 2017 and filed on 11/17/2017 along with the Notice of Appeal and a second after FINAL amendment but after both the 7/19/2017 FINAL and 9/18/2017 after FINAL amendment. Accordingly the ruling could not have been presented earlier. The ruling was discussed on pages 8-9, I. Updated Background, A. The Related Litigation. Documents referred to in such ruling/discussion, e.g. "(Doc. 216)", "(Doc. 226)" were not filed with the 11/17/2017 response.

Claim Patentability-Multi-Vehicle Compatible Controller

Appellant's discussion of the recitation "a multi-vehicle compatible controller to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles", pages 20-26, has been noted and considered.

Examiner respectfully disagrees with Appellant. As best understood, Appellant asserts/concludes (following a quotation of a portion of Chou (col. 4, lines 20-38 were reproduced) and an excerpt of part of the FINAL Office Action-see attached Appendix A, bridging pages 36-37) that Chou fails to disclose the recited controller because there is a lack of vehicle code compatibility among vehicles of different manufacturers and in some cases, even between different "products" of the same manufacturer which lack was discussed by SAE 3000 and the problem addressed by the '278 patent. However such assertions/conclusions are not commensurate with the terms of the claim/recited feature itself and/or such terms given the broadest reasonable interpretation consistent with the specification but not reading limitations in the specification into the claims, the teachings of Chou and/or the FINAL Office Action.

First, the language of the phrase does not require compatibility among vehicles of different manufacturers and/or different "product" lines of the same manufacturer. See the FINAL Office action at attached Appendix A, first full paragraph of page 11, i.e. "different vehicles" can be, e.g., same make and model with different trims (not different electronics).

[2] Appellant does not specifically address the rejection of claims 4-8, 11-12, 18-21 nor the rejections of claims 2-3 9-10, 13-17 and 22 relying on Chou in combination with Suman or Spaur.

Note also attached Appendix A, pages 18-23 and 33-35, in their entirety, as well as the Markman Order agreed construction of the claim term "Multi-vehicle compatible controller" during the related litigation[3], Evidence Appendix Item 8, page 6, showing "multi-vehicle compatible controller" was construed as electronic circuitry that "can operate with more than one vehicle", not vehicles of different manufacturers and/or different "product" lines of the same manufacturer. Continuing, the phrase, see again pages 21-23 of Appendix A, as construed does not require the corresponding structure (e.g. circuitry, memory, CPU) simultaneously store codes of vehicles of different manufacturers and/or different "product" lines of the same manufacturer and/or be capable of using any of such stored codes from vehicles of different manufacturers and/or different "product" lines of the same manufacturer. The phrase requires of corresponding structure merely the capability of using at least one code from among a plurality thereof for "different vehicles", see again attached Appendix A, pages 11 and 33-35 of the Appendix A, i.e. teaching of such a capability by '499, i.e. capable of using a code from among a plurality thereof, i.e. model dependent.

Note also the discussion with regard to the declaration *infra*.

Claim Patentability-Downloading Interface

Appellant's discussion of the recitation "a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for

[3] "Electronic circuitry that performs one or more control function, and can operate with more than one vehicle". In other words electronic circuitry that has the capability to operate with at least two vehicles but those vehicles do not have to be of different models and/or from different manufacturers, i.e. could be of the same make and model from the same manufacturer.

use by said multi-vehicle compatible controller", pages 19-24 and 26-35, has been noted and considered.

Examiner respectfully disagrees with Appellant. As best understood, Appellant asserts/concludes, (after quotations of the pertinent claim language and portions of attached Appendix A, pages 26-27 and 35-36 and a reproduction of Figure 5 of '499) that Chou does not discuss the recited feature but instead merely discloses passing data between the in-vehicle system and the remote service center. However such assertions/conclusions are not commensurate with the terms of the claim itself and/or such terms given the broadest reasonable interpretation consistent with the specification but not reading limitations in the specification into the claims, the teachings of Chou and/or the FINAL Office Action of Appendix A.

First see attached Appendix A at pages 23-25 as well as the cited page 26 with regard to the interpretation of the claim phrase. It is again noted such phrase recites the function or capability of the corresponding structure as "permitting downloading of enabling data **related to** the at least one corresponding vehicle device **code** for use by *said multi-vehicle compatible controller*". Attention is again invited to the discussion in the Claim Patentability-Multi-Vehicle Compatible Controller section *supra*. Second, see again the entirety of the rejections of Appendix A at pages 36 and 46-48 as well as the cited page 35-36.

Appellant's discussion of cited portions of Chou, e.g. col. 9, lines 35-45, col. 4, lines 15-38, col. 10, lines 1-11, introduced for the first time after FINAL, are also deemed not persuasive for the same reasons with regard to the corresponding structure and function/capability of the functional phrase.

Claim Patentability-Teachings of Chou

Appellant's discussion of Chou teaching away from the invention, pages 35-38, which relies on the same portions of '278 cited in paragraph 17 of the declaration, has been noted and considered but are not persuasive.

Again Appellant's assertions/conclusions are not commensurate with the terms of the claim itself and/or such terms given the broadest reasonable interpretation consistent with the specification but not reading limitations in the specification into the claims. See again the prior discussion of the multi-vehicle compatible controller and downloading interface, i.e. the claim language does not require specifics (e.g. on-board structure with the ability to work with different vehicles having different codes, i.e. simultaneous storage data/codes of vehicles from different manufacturers and/or different models and use of such codes) as asserted, as best understood.

Note also the discussion with regard to the declaration *infra*.

Secondary Considerations

PO's discussion of secondary considerations, pages 38-53, which relies on the declaration, paragraph 19 of Evidence Appendix Item 6 and Evidence Appendix Item 1 (Jury Verdict Form) and Evidence Appendix Item 3 (The Final Order) and Evidence Appendix Item 7 (The Final Judgement) and excerpts of testimony (Stephen Hall and Peter Hergesheimer), has been noted and considered but are not persuasive.

First, to be of probative value, evidence of secondary considerations must be related to the claimed invention, i.e. a nexus between the invention as claimed and evidence of the secondary consideration. As discussed *supra*, the claimed invention as discussed by PO is not commensurate with the invention as claimed. Second, with regard to the litigation evidence relied upon, see again MPEP 2259. See also discussion of the declaration *infra*. Third, PO asserts litigation evidence (testimony/trial transcript, exhibits, instructions, see, e.g., page 39 second full paragraph, page 40 last two paragraphs, page 41, line 16-page 45, line 3, section c on pages 45-46 and the testimony excerpts bridging pages 46-51) for the conclusions regarding the secondary considerations. However such referenced testimony/trial transcript, exhibits, instructions are not of record, e.g. jury instructions, or only partially of record, e.g. excerpts of testimony of trial transcript, as best understood. Finally PO asserts the declaration for the conclusions regarding the secondary considerations. However see the discussion of the declaration *infra*. Note also the evidence of record is silent with regard to the Chou '499 reference.

6/12/2017 Declaratory Evidence

Section I, paragraphs 1-6, with regard to Background have been noted.

Section II, The '278 Patent and Current Office Action, paragraphs 7-9, with regard to evidence reviewed (e.g. "the related litigation trial transcript and exhibits", the statements of the statutory grounds of the pending rejections and the declarant's presentation of "representative" claims 1, 13 and 18 recitations) have been noted. As best understood from the identification of "the

related litigation trial transcript and exhibits", such are not of record or only partly of record. See again the Secondary Considerations section *supra*.

See MPEP 716.01 (c), I and III.

Section III, The Prior Art Analysis, paragraphs 10-17, (declarant's understanding of what Chou and SAE HS-3000 disclose, declarant's understanding of Examiner's interpretation and prior art position with regard to "down loading interface", declarant's "opinion" that Chou "fails to disclose the multi-vehicle compatible controller and downloading interface of the claimed vehicle tracking unit, as these claim recitations are interpreted by the Examiner" and declarant's "opinion" that "Chou teaches away from the claimed invention" including citations to columns and lines of '278) have been noted. However, declarant's understanding of the Examiner's interpretation/positions, as best understood (merely portions thereof reproduced without reference to, i.e. page, line nos/the pertinent portions of the 3/29/2017 Office action) and/or declarant's "opinion" with regard to Chou's disclosure as to "claim recitations as interpreted by the Examiner" are merely conclusory. Declarant's "opinion" as to Chou teaching away is likewise conclusory (the cited portions as best understood are those of '499). See also the discussion *supra* of the multi-vehicle compatible controller and downloading interface of the claimed vehicle tracking unit.

Section IV, Evidence of Secondary Considerations, paragraphs 18-19 (including reliance on litigation evidence, i.e. Jury Verdict, The Final Judgement, portions of depositions, financial expert Reports), have been noted. Declarant's submissions regarding non-obviousness are merely conclusory. See the discussion in Secondary Considerations section *supra.* Again the evidence of

non-obviousness (i.e. testimony/trial transcript, exhibits, instructions) are not of record, e.g. jury instructions, financial expert Reports, or only partially of record, e.g. excerpts of testimony of trial transcript, as best understood.

As a final matter, Appellant's newly presented remarks with regard to grant propriety (see, e.g., pages 54-61, "II. The Reexamination Was Improperly Granted"0 relate to issues which are petitionable not appealable. Accordingly such remarks have not been further addressed.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Karin Reichle/
Primary Examiner, Art Unit 3992

Conferees:

/Jalatee Worjloh/

Primary Examiner, Art Unit 3992

/Woo H. Choi/

SPRS, Art Unit 3992

Requirement to pay appeal forwarding fee. In order to avoid dismissal of the instant appeal in any application or ex parte reexamination proceeding, 37 CFR 41.45 requires payment of an appeal forwarding fee within the time permitted by 37 CFR 41.45(a), unless appellant had timely paid the fee for filing a brief required by 37 CFR 41.20(b) in effect on March 18, 2013.

Appendix A

Claim Interpretation/Analysis:

Lexicographic Definitions

See MPEP § 2111.01, IV and 2163.07(a). The original specification (col. 22, first full paragraph) incorporates by reference U.S. 6,011,460 with regard to the tracking device communicating with one or more other vehicle devices via a vehicle data communication bus which '460 at col. 6, lines 14-18 sets forth "As would be readily understood by those skilled in the art, the term different vehicles [sic] may include vehicles from different manufacturers, different models, or even different trim levels of the same make and model."

35 U.S.C. §112 Sixth Paragraph

"Means-plus function" language of a claim if meeting the 3-prong analysis set forth in MPEP 2181, I, "shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof", see MPEP 2181, II. As also set forth in 2181, II, "If one employs means plus function language in a claim, one must set forth in the specification an adequate disclosure showing what is meant by that language", i.e. sets forth the structure, materials, or acts corresponding to a means- (or step-) plus-function.

Specifically:

> …examiners will apply 35 U.S.C. 112(f) or pre-AIA 35 U.S.C. 112, sixth paragraph to a claim limitation if it meets the following 3-prong analysis:
>
> (A) the claim limitation uses the term "means" or "step" or a term used as a substitute for "means" that is a generic placeholder (also called a nonce term or a non-structural term having no specific structural meaning) for performing the claimed function;
>
> (B) the term "means" or "step" or the generic placeholder is modified by functional language, typically, but not always linked by the transition word "for" (e.g., "means for") or another linking word or phrase, such as "configured to" or "so that"; and
>
> (C) the term "means" or "step" or the generic placeholder is not modified by sufficient structure, material, or acts for performing the claimed function.

The Examiner concludes that claims 1-22 include a phrase or phrases that invokes/invoke 35 U.S.C. §112, 6th paragraph. For support of the Examiners conclusion the Examiner notes the following 3-prong analyses.

"a vehicle position determining device"

Analysis of Independent Claims 1, 13 and 18

The Examiner concludes the phrase "*a vehicle position determining device*," as recited in claims 1, 13 and 18, line 5, (Functional Phrase #1) invokes 35 U.S.C § 112, 6th paragraph. To support the Examiner's conclusion, the Examiner notes the following 3-Prong analysis:

a) 3-Prong Analysis Prong (A):

As an initial matter, the Examiner finds that Functional Phrase #1 does not use the term "means." The issue arising under Prong (A) then becomes whether or not the claimed phrase "device" is a generic placeholder for 'means'. *See MPEP 2181 I ¶3 and MPEP 2181 I (C) ¶4.*

The Examiner has reviewed the specification of '278 and finds: (1) insufficient evidence that '278 Patent lexicographically defines the phrase "device" as a particular structure for performing the entire claimed function; (2) insufficient evidence that '278 indicates that the phrase "device" refers to a particular structure in the art, that a person having ordinary skill in the art (PHOSITA) would recognize as a structure known to perform the entire claimed function. *See Williamson v. Citrix Online, L.L.C.,* 115 USPQ2d 1105, 1112 (Fed. Cir. 2015).

In addition the Examiner has reviewed the prior art and finds that while the phrase "device" can be a particular structure in the art, the Examiner finds insufficient evidence that the phrase "device" infers or requires any particular structure as related to the function of Functional Phrase #1.

Accordingly based upon a review of '278 itself and the prior art, the Examiner concludes that the phrase "device" as set forth in Functional Phrase #1 is being applied as a generic term/placeholder having no particular structure associated therewith as related to the entire claimed function. Because "device" is merely a generic placeholder having no specific structure

associated therewith, the Examiner concludes that Functional Phrase #1 meets invocation Prong (A).

b) 3-Prong Analysis Prong (B):

Based upon a review of claims 1, 13 and 18 in '278, the Examiner finds that the function associated with Functional Phrase #1 is: "*vehicle position determining*" ('278 Patent, Claims 1, 13 and 18, line 5). *See MPEP 2181 I (B) ¶2.*

Because Functional Phrase #1 includes the function expressly noted above, the Examiner concludes that Functional Phrase #1 meets invocation Prong (B). Additionally, the Examiner notes that because nothing in the written description contradicts the plain language describing this function, the function within Functional Phrase #1 will have its ordinary and accustomed meaning.

c) 3-Prong Analysis: Prong (C)

Based upon a review of the entire Functional Phrase #1, the Examiner finds that Functional Phrase #1 does not contain sufficient structure for performing the entire claimed function that is set forth within Functional Phrase #1. In fact, the Examiner finds that Functional Phrase #1 recites very little structure (if any) for performing the claimed function.

Because Functional Phrase #1 does not contain sufficient structure for performing the entire claimed function, the Examiner concludes that Functional Phrase #1 meets invocation Prong (C).

d) Corresponding Structure

Based upon a review of the original disclosure, the Examiner finds that the corresponding structure for Functional Phrase #1 includes a device (42 in Figure 1, 112 in Figure 10) receiving multiple signals from spaced apart satellites (38 in Figure 1), e.g. a GPS receiver, or communications with the cellular telephone network, e.g. time of arrival techniques available based upon multiple reception paths to determine position via the cellular telephone network, or other satellite transmissions ('278 at col. 5, lines 15-26 and col. 23, lines 46-47 and 51-54) . Therefore the corresponding structure for Functional Phrase #1 is a receiver of communications/transmissions from satellites or cellular telephone networks for achieving the function.

Analysis of Dependent Claim 11

The Examiner concludes that dependent claim 11 modifies and/or adds to the structure of Functional Phrase #1 forming modified Functional Phrase #1. Accordingly the Examiner finds

that the corresponding structure for modified Functional Phrase #1 is a GPS receiver of communications/transmissions with satellites for determining vehicle position.

Analysis of Other Dependent Claims

The Examiner finds that the dependent claims other than claim 11 do not modify the function of nor the corresponding structure for Functional Phrase #1.

"a wireless communications device"

Analysis of Independent Claims 1, 13 and 18

The Examiner concludes the phrase "*wireless communications device*" as recited in claims 1, 13 and 18, line 6, (Functional Phrase #2) invokes 35 U.S.C § 112, 6th paragraph. To support the Examiner's conclusion, the Examiner notes the following 3-Prong analysis:

a) 3-Prong Analysis Prong (A):

As an initial matter, the Examiner finds that Functional Phrase #2 does not use the term "means." The issue arising under Prong (A) then becomes whether or not the claimed phrase "device" is a generic placeholder for 'means'. *See MPEP 2181 I ¶3 and MPEP 2181 I (C) ¶4.*

The Examiner has reviewed the specification of '278 and finds: (1) insufficient evidence that '278 lexicographically defines the phrase "device" as a particular structure for performing the entire claimed function; (2) insufficient evidence that '278 indicates that the phrase "device" refers to a particular structure in the art, that a person having ordinary skill in the art (PHOSITA)

would recognize as a structure known to perform the entire claimed function. *See Williamson v. Citrix Online, L.L.C.,* 115 USPQ2d 1105, 1112 (Fed. Cir. 2015).

In addition the Examiner has reviewed the prior art and finds that while the phrase "device" can be a particular structure in the art, the Examiner finds insufficient evidence that the phrase "device" infers or requires any particular structure as related to the function of Functional Phrase #2.

Accordingly based upon a review of '278 itself and the prior art, the Examiner concludes that the phrase "device" as set forth in Functional Phrase #2 is being applied as a generic term/placeholder having no particular structure associated therewith as related to the entire claimed function. Because "device" is merely a generic placeholder having no specific structure associated therewith, the Examiner concludes that Functional Phrase #2 meets invocation Prong (A).

b) 3-Prong Analysis Prong (B):

Based upon a review of claims 1, 13 and 18 in '278, the Examiner finds that the function associated with Functional Phrase #2 is: "*wireless communications*" ('278 Patent, Claims 1, 13 and 18, line 6.) *See MPEP 2181 I (B) ¶2.*

Because Functional Phrase #2 includes the function expressly noted above, the Examiner concludes that Functional Phrase #2 meets invocation Prong (B). Additionally, the Examiner notes that because nothing in the written description contradicts the plain language describing this function, the function within Functional Phrase #2 will have its ordinary and accustomed meaning.

c) 3-Prong Analysis: Prong (C)

Based upon a review of the entire Functional Phrase #2, the Examiner finds that Functional Phrase #1 does not contain sufficient structure for performing the entire claimed function that is set forth within Functional Phrase #2. In fact, the Examiner finds that Functional Phrase #2 recites very little structure (if any) for performing the claimed function.

Because Functional Phrase #2 does not contain sufficient structure for performing the entire claimed function, the Examiner concludes that Functional Phrase #2 meets invocation Prong (C).

d) Corresponding Structure

Based upon a review of the original disclosure, the Examiner finds that the corresponding structure for Functional Phrase #2 is a device (44 in Figure 1, 113 in Figures 10 and 12) configured to wirelessly transmit/communicate in a voice band or on a control channel, e.g. cellular phone transceiver, of a cellular network, over other networks, e.g. over satellite, or via wireless internet services ('278 at col. 5, lines 31-49 and col. 23, lines 47-48 and 55-58). Therefore the corresponding structure for Functional Phrase #2 is a transceiver for wirelessly communicating/transmitting in a voice band or on a control channel of a cellular network or over other networks, e.g. over satellite, or via wireless internet services.

Analysis of Dependent Claims

The Examiner finds that the dependent claims do not modify the function of nor the corresponding structure for Functional Phrase #2.

"a multi-vehicle compatible controller…"

Analysis of Independent Claims 1, 13 and 18

The Examiner concludes "*a multi-vehicle compatible controller for cooperating with said vehicle position determining device and said wireless communications device to send vehicle position information; said multi-vehicle compatible controller to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles*"[4] as recited in claims 1, 13 and 18, lines 7-15, (Functional Phrase #3) invokes 35 U.S.C § 112, 6th paragraph. To support the Examiner's conclusion, the Examiner notes the following 3-Prong analysis:

a) 3-Prong Analysis Prong (A):

As an initial matter, the Examiner finds that Functional Phrase #3 does not use the term "means." The issue arising under Prong (A) then becomes whether or not the claimed phrase "device" is a generic placeholder for 'means'. *See MPEP 2181 I ¶3 and MPEP 2181 I (C) ¶4.*

[4] Again the original specification (col. 22, first full paragraph) incorporates by reference U.S. 6,011,460 with regard to the tracking device communicating with one or more other vehicle devices via a vehicle data communication bus which at col. 6, lines 14-18 sets forth "As would be readily understood by those skilled in the art, the term different vehicles [sic] may include vehicles from different manufacturers, different models, or even different trim levels of the same make and model."

The Examiner has reviewed the specification of '278 and finds: (1) insufficient evidence that '278 lexicographically defines the phrase "multi-vehicle compatible controller" as a particular structure for performing the entire claimed function; (2) insufficient evidence that '278 indicates that the phrase "multi-vehicle compatible controller" refers to a particular structure in the art, that a person having ordinary skill in the art (PHOSITA) would recognize as a structure known to perform the entire claimed function. *See Williamson v. Citrix Online, L.L.C.,* 115 USPQ2d 1105, 1112 (Fed. Cir. 2015).

In addition the Examiner has reviewed the prior art and finds that while the phrase "multi-vehicle compatible controller" can be a particular structure in the art, the Examiner finds insufficient evidence that the phrase "device" infers or requires any particular structure as related to the function of Functional Phrase #3.

Accordingly based upon a review of '278 itself and the prior art, the Examiner concludes that the phrase "multi-vehicle compatible controller" as set forth in Functional Phrase #3 is being applied as a generic term/placeholder having no particular structure associated therewith as related to the entire claimed function. Because "multi-vehicle compatible controller" is merely a generic placeholder having no specific structure associated therewith, the Examiner concludes that Functional Phrase #3 meets invocation Prong (A).

b) 3-Prong Analysis Prong (B):

Based upon a review of claims 1, 13 and 18 in '278, the Examiner finds that the function associated with Functional Phrase #3 is: "*for cooperating with said vehicle position determining device and said wireless communications device to send vehicle position information"* and "*to be*

coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles" ('278 Patent, Claims 1, 13 and 18, lines 7-15).

Because Functional Phrase #3 includes the function expressly noted above, the Examiner concludes that Functional Phrase #3 meets invocation Prong (B). Additionally, the Examiner notes that because nothing in the written description contradicts the plain language describing this function, the function within Functional Phrase #3 will have its ordinary and accustomed meaning.

c) 3-Prong Analysis: Prong (C)

Based upon a review of the entire Functional Phrase #3, the Examiner finds that Functional Phrase #3 does not contain sufficient structure for performing the entire claimed function that is set forth within Functional Phrase #3. In fact, the Examiner finds that Functional Phrase #3 recites very little structure (if any) for performing the claimed function.

Because Functional Phrase #3 does not contain sufficient structure for performing the entire claimed function, the Examiner concludes that Functional Phrase #3 meets invocation Prong (C).

d) Corresponding Structure

Based upon a review of the original disclosure, the Examiner finds that the corresponding structure for Functional Phrase #3 is a controller including a central processing unit (CPU) (126, Fig. 10) or other logic circuitry, a memory (125, Fig. 10), a clock (124, Figure 10) and

input/output circuitry (127, Fig. 10). The memory may store vehicle position information, and a vehicle device code or codes ('278 at col. 6, lines 28-35, col. 11, lines 24-35, col. 22, lines 1-7 (and thereby '460 at col. 3, lines first full paragraph and lines 52-60, col. 4, line 44-col. 5, line 31, col. 5, line 66-col. 6, line 23 and col. 6, lines 36-58 and Figure1, elements 12, 15, and 17) and col. 23, line 41-col. 24, line 13). The corresponding structure for Functional Phrase #3, therefore, is a controller including CPU, operating under stored program control, or other logic circuit, a memory, a clock and input/output circuitry for cooperating with said vehicle position determining device and said wireless communications device to send vehicle position information and for coupling to a vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles.

Analysis of Dependent Claims 2-5, 8, 11-12, 16, and 21

The Examiner finds that these dependent claims do not modify the function nor the corresponding structure for Functional Phrase #3.

Analysis of Dependent claims 6-7, 14-15, and 19-20

The Examiner concludes that dependent claims 6-7, 14-15, and 19-20 modify and/or add to the function of Functional Phrase #3 forming first modified Functional Phrase #3. (See '278 at col. 23, line 67-col. 24, line 3.) Accordingly the Examiner finds that the corresponding structure for first modified Functional Phrase #3 is that same as that as for Functional Phase #3 however for the modified function of communication over the data bus with at least one vehicle device

using at least one corresponding vehicle device code from among a plurality thereof for different vehicles which is for reading from (claim 6, 14, or 19) or writing to (claim 7, 15, or 20) the at least one vehicle device.

Analysis of dependent claims 9-10, 17, and 22

The Examiner concludes that dependent claims 9-10, 17, and 22 modify and/or add to both the structure and the function of Functional Phrase #3 forming second and third modified Functional Phrase #3. (See '278 at col. 23, line 67-col. 24, line 3.) Accordingly the Examiner finds that claims 9, 17 and 22 additionally require a remote transmitter (117, Figure 10) and the corresponding structure for second modified Functional Phrase #3 additionally includes a remote receiver (118, Figure 10) (See '278 at col. 24, last full paragraph) for the additional function of, responsive to the remote transmitter, performing at least one vehicle remote control function responsive to the remote transmitter and that claim 10 additionally requires a remote transmitter (117, Figure 10) and the corresponding structure for third modified Functional Phrase #3 additionally includes a remote receiver (118, Figure 10 (See '278 at col. 24, last full paragraph) for the additional function of, responsive to the remote transmitter, performing at least one vehicle remote control function comprising at least one of a vehicle security function, a remote keyless entry function and a remote engine starting function.

"a downloading interface…"

Analysis of Independent Claim 1

The Examiner concludes the phrase "*a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller.*" as recited in claim 1, lines 16-19, (Functional Phrase #4) invokes 35 U.S.C § 112, 6th paragraph. To support the Examiner's conclusion, the Examiner notes the following 3-Prong analysis:

a) 3-Prong Analysis Prong (A):

As an initial matter, the Examiner finds that Functional Phrase #4 does not use the term "means." The issue arising under Prong (A) then becomes whether or not the claimed phrase "downloading interface" is a generic placeholder for 'means'. *See MPEP 2181 I ¶3 and MPEP 2181 I (C) ¶4.*

The Examiner has reviewed the specification of '278 and finds: (1) insufficient evidence that '278 lexicographically defines the phrase "downloading interface" as a particular structure for performing the entire claimed function; (2) insufficient evidence that '278 indicates that the phrase "downloading interface" refers to a particular structure in the art, that a person having ordinary skill in the art (PHOSITA) would recognize as a structure known to perform the entire claimed function. *See Williamson v. Citrix Online, L.L.C.,* 115 USPQ2d 1105, 1112 (Fed. Cir. 2015).

In addition the Examiner has reviewed the prior art and finds that while the phrase "downloading interface" can be a particular structure in the art, the Examiner finds insufficient evidence that the phrase "device" infers or requires any particular structure as related to the function of Functional Phrase #4.

Accordingly based upon a review of '278 itself and the prior art, the Examiner concludes that the phrase "downloading interface" as set forth in Functional Phrase #4 is being applied as a generic term/placeholder having no particular structure associated therewith as related to the entire claimed function. Because "downloading interface" is merely a generic placeholder having no specific structure associated therewith, the Examiner concludes that Functional Phrase #4 meets invocation Prong (A).

b) 3-Prong Analysis Prong (B):

Based upon a review of claim 1 in '278, the Examiner finds that the function associated with Functional Phrase #4 is: "*for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller.*" ('278 Patent, Claim 1, lines 16-19.)

Because Functional Phrase #4 includes the function expressly noted above, the Examiner concludes that Functional Phrase #4 meets invocation Prong (B). Additionally, the Examiner notes that because nothing in the written description contradicts the plain language describing this function, the function within Functional Phrase #4 will have its ordinary and accustomed meaning.

c) 3-Prong Analysis: Prong (C)

Based upon a review of the entire Functional Phrase #4, the Examiner finds that Functional Phrase #4 does not contain sufficient structure for performing the entire claimed function that is set forth within Functional Phrase #4. In fact, the Examiner finds that Functional Phrase #4 recites very little structure (if any) for performing the claimed function.

Because Functional Phrase #4 does not contain sufficient structure for performing the entire claimed function, the Examiner concludes that Functional Phrase #4 meets invocation Prong (C).

d) Corresponding Structure

Based upon a review of the original disclosure, the Examiner finds that the corresponding structure for Functional Phrase #4 is a downloading interface (Figure 10, 116), e.g. interface circuitry 132 (e.g. logic circuitry or other control circuitry along with switching components) for controlling communication with a downloading device, and either a wireless signal downloading interface (e.g. a wireless receiver 114, such as for temporary connection to the downloading device 115 via any one or more of a number of wireless technologies, such as cellular, satellite, IR, Bluetooth or WiFi technologies (Fig. 11) or a temporary wireless communication link with the downloading device provided by sharing the wireless communications device that sends position data (Fig. 12)) or a wired signal downloading interface (e.g. a connector 133a in the form of a socket to accept a memory card or other data storage medium capable of transferring data or a connector 133a for temporary connection to a mating connector 133b of the downloading device (Fig. 13) wherein the downloading device can be, e.g., a laptop computer,

via RS232/429 protocol, USB, FireWire, TCP/IP (Internet), or any other wired protocol.) (See '278 at col. 24, lines 14-51.) The corresponding structure for Functional Phrase #4 is therefore such a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code, e.g. vehicle device code or codes, an instruction to select a code or codes from among those already stored, or the data or sequence to allow the controller to generate the vehicle device code or codes, for use by said multi-vehicle compatible controller ('278 at col. 24, lines 8-12).

Analysis of Dependent Claims 2-3 and Independent claim 13

The Examiner concludes that dependent claim 2, independent claim 13 and dependent claim 3 modify and/or add to the structure of Functional Phrase #4 forming first and second modified Functional Phrases #4. (See '278 at col. 24, second full paragraph.) Accordingly the Examiner finds that for claim 2 the corresponding structure for first modified Functional Phrase #4 additionally includes the structure of a wired signal downloading interface and that for claims 3 and 13 the corresponding structure for second modified Functional Phrase #4 additionally includes the structure of a wired signal downloading interface comprising a connector for temporary connection to a downloading device.

Analysis of Dependent Claims 4 and 5 and Independent Claim 18

The Examiner concludes that dependent claim 4, independent claim 18 and dependent claim 5 modify and/or add to the structure of Functional Phrase #4 forming third and fourth modified Functional Phrases #4. (See '278 at col. 24, second full paragraph.) Accordingly the

Examiner finds that for claim 4 the corresponding structure for third modified Functional Phrase #4 additionally includes the structure of a wireless signal downloading interface and that for claims 5 and 18 the corresponding structure for fourth modified Functional Phrase #4 additionally includes the structure of a wireless signal downloading interface comprising a wireless receiver connector for temporary connection to a downloading device.

Analysis of Dependent Claims 8, 16 and 21

The Examiner concludes these dependent claims modify and/or add to the function of Functional Phrase #4 forming modified, modified second and modified fourth Functional Phrases #4, respectively. (See '278 at col. 24, lines 46-51.) Accordingly the Examiner finds that with regard to claims 8, 16 and 21 the corresponding function for the respective phrases includes permitting downloading of at least one programming instruction for said multi-vehicle compatible controller.

Conclusion

Finally, see MPEP 2258, I., G, "During reexamination, claims are given the broadest reasonable interpretation consistent with the specification and limitations in the specification are not read into the claims (*In re Yamamoto*, 740 F.2d 1569, 222 USPQ 934 (Fed. Cir. 1984)). See also MPEP 2111, e.g. "[T]he ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application." *Phillips v. AWH Corp.*, 415 F.3d 1303, 1313, 75 USPQ2d 1321, 1326 (Fed. Cir. 2005) (*en banc*) and "The ordinary and customary meaning of a term may be evidenced by a variety of sources, including 'the words of

the claims themselves, the remainder of the specification, the prosecution history, and extrinsic evidence concerning relevant scientific principles, the meaning of technical terms, and the state of the art." *Phillips v. AWH Corp.*, 415 F.3d at 1314, 75 USPQ2d at 1327.

Rejections based on Prior Art:

Statutory Bases

The following is a quotation of the appropriate paragraphs of pre-AIA 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the

reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

The following is a quotation of pre-AIA 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under pre-AIA 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.

3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim Rejections

Claim(s) 1, 4-8, 11-12, and 18-21 are rejected under pre-AIA 35 U.S.C. 102(b) as anticipated by or, in the alternative, under pre-AIA 35 U.S.C. 103(a) as obvious over U.S. Patent No. 6,330,499 to Chou et al (hereinafter also referred to as '499 or Chou).

The patent to Chou includes a/an publication/issue date more than one year prior to the effective filing date of June 3, 2007 of '278, and thus are available as prior art under 35 USC 102(b) and 35 USC 103.

Claim 1

A multi-vehicle compatible tracking unit for a vehicle comprising a vehicle data bus extending throughout the vehicle, the multi-vehicle compatible tracking unit comprising:

See '499 at, e.g., Fig. 1, elements 1000, 100 and 317, col. 2, lines 39-43, Figure 2, esp. elements 330, 335 and the dotted line therebetween, col. 3 lines 33-46 ("The processor 300 is coupled to a vehicle bus 335 through a vehicle bus interface 330. The coupling between the client computer device and the vehicle bus interface 106 of FIG. 3, may be one of RS-232, USB (Universal Serial Bus), IDB (ITS Data Bus), Ethernet, and the like. The vehicle bus interface may support one of vehicle bus standards such as CAN (Controller Area Network) and the Society of Automotive Engineers' SAE J1850 - Class B Data Communication Network Interface. Alternatively, the processor supports some or all of the functions of the vehicle bus interface and connects directly to the vehicle bus 335. The vehicle bus shown in FIG. 2 is an inherent part of all new automobiles. The dotted line is used as an indication that the vehicle bus is built into the vehicle."), col. 3, lines 54-56, col.4, lines 2-38 (esp. "model dependent"), Fig. 3, elements 103 and 104, col. 1, lines 11-17 and col. 6, lines 39-41, col. 7, lines 32-40, and claims 2

and 7-9. Therefore '499 discloses a multi-vehicle compatible, i.e. multi-model compatible, tracking unit for a vehicle comprising a vehicle data extending throughout the vehicle.

a vehicle position determining device;

See *Claim Interpretation/Analysis* section, **"a vehicle position determining device"** *supra*, the discussion of claim 11 infra and '499 at, e.g., Figure 1, element 150A and 317, col. 2, lines 39-43, col. 3, lines 54-59 ("Optionally, the processor 300 may be coupled to a location sensing device such as a GPS receiver 317 (FIG. 1) to provide vehicle location information. The system may or may not assume the availability of the automatic vehicle position information. Location-related scenario, such as emergency help dispatch may use automatic vehicle positioning …."), col. 7, lines 32-40 and claims 1-2. Therefore '499 discloses the tracking unit comprising "a vehicle position determining device".

a wireless communications device;

See *Claim Interpretation/Analysis* section, **"a wireless communications device"** *supra* and '499 at, e.g., Figure 1, element 150, Figure 2, element 320, col. 2, lines 30-39 ("As shown in FIG. 1, the system 1000 includes a vehicle 10 with a vehicle driver or user 140, having an in-vehicle computing system 100, a client computer device 101 installed to enable vehicle health checkup and remote diagnostics, a communication link 150 (e.g., via wireless base stations 150B, or the like) for communicating vehicle information (e.g., vehicle identification number, (VIN), diagnostic data, and the like). Such a link can be interfaced with an internet 150C, the

Internet 150D, or a public (or private) switch telephone network (PSTN) 150E."), col. 3, lines 15-32, Figure 3, elements 107 and 102, and col. 4, lines 39-42. Therefore '499 further discloses the tracking unit comprising "a wireless communications device".

a multi-vehicle compatible controller for cooperating with said vehicle position determining device and said wireless communications device to send vehicle position information;

See *Claim Interpretation/Analysis* section, **"a multi-vehicle compatible controller…"** and prior discussion of the preamble, "a vehicle position determining device" and "a wireless communications device". Additionally see Fig. 2, elements 300 and 350, col. 2, lines 44-52 and 55 et seq, col. 3, line 62-col. 4, line 14 and Figure 3, element 101/120. Therefore Chou discloses a CPU operating under stored program/software control, e.g. 300, 101, a memory, e.g. 350, and input/output circuitry, e.g. 330. '499 further discloses time stamping information or data, e.g. test data or fault codes ('499 at col. 5, first full paragraph and the paragraph bridging cols. 7-8 and Figure 4). Therefore Chou is also considered to either implicitly disclose or obviously suggest a clock since it discloses some structure/device for providing an indication of time. Thus, '499 further implicitly or obviously discloses a "a multi-vehicle compatible controller" and such for cooperating with said vehicle position determining device and said wireless communications device to send vehicle position information.

said multi-vehicle compatible controller to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles; and

See *Claim Interpretation/Analysis* section, **"a multi-vehicle compatible controller…"**. See also the prior discussion of the preamble, esp. col. 3 lines 33-46 ("The processor 300 is coupled to a vehicle bus 335 through a vehicle bus interface 330. The coupling between the client computer device and the vehicle bus interface 106 of FIG. 3, may be one of RS-232, USB (Universal Serial Bus), IDB (ITS Data Bus), Ethernet, and the like. The vehicle bus interface may support one of vehicle bus standards such as CAN (Controller Area Network) and the Society of Automotive Engineers' SAE J1850 - Class B Data Communication Network Interface. Alternatively, the processor supports some or all of the functions of the vehicle bus interface and connects directly to the vehicle bus 335. The vehicle bus shown in FIG. 2 is an inherent part of all new automobiles. The dotted line is used as an indication that the vehicle bus is built into the vehicle."), and col. 4, lines 15-38 ("The vehicle bus interface 120 is responsible for replying to requests for parametric data. It is also responsible for continuously monitoring the vehicle bus 104 for any fault reported by the ECUs 103, in terms of diagnostic trouble codes (DTCs). The vehicle bus interface 120 includes the following modules: vehicle bus adapter 120C, fault detector 120B, and diagnostic data service 120A. The fault detector 120B polls the vehicle bus 104 through the vehicle bus adapter 120C checking for fault codes reported by the vehicle ECUs 103. The vehicle bus adapter 120C translates the messages received from the vehicle bus into the language of the fault detector. It also translates messages from the fault detector into the language of the vehicle bus. **The fault code specifications and protocols of the vehicle may be Original Equipment Manufacturer (OEM) and model dependent.** The term 'vehicle fault codes' is meant to be synonymous with the term 'trouble code' or 'diagnostic trouble code'. A listing of such codes may be found in the publication of the Society of

Automotive Engineers, 'SAE On-Board Diagnostics for Light and Medium Duty Vehicles Standards Manual'. The diagnostic data service 120A accepts request for vehicle parametric data and retrieves the data using the vehicle bus adapter." (Emphasis added).), and "**said multi-vehicle compatible controller for cooperating with said vehicle position determining device and said wireless communications device to send vehicle position information"**. Thus Chou either implicitly discloses or obviously suggests a "multi-vehicle compatible controller" and such controller is coupled to a vehicle data bus, e.g. 335, 104, for communication thereover, e.g. via 330, 120, with at least one vehicle device, e.g. 103, using at least one corresponding vehicle device code, i.e. (DTC), vehicle fault codes/protocols, which is vehicle model dependent, i.e. from among a plurality thereof for "different vehicles".

a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller.

See *Claim Interpretation/Analysis* section, "**a downloading interface…**". See also, e.g., '499 at Figure 1, element 150, Figure 2, elements 320, 360, Figure 3, elements 102, 107, Figure 4, 102, NETWORK INTERFACE, arrow 7,14 and "HTTP, TCP/IP, PPP/SLIP, DIAL-UP, GSM", and Figure 5, 102, NETWORK INTERFACE, arrow 3,9, arrow 4,7, arrow 5,6 and "HTTP, TCP/IP, PPP/SLIP, DIAL-UP, GSM", col. 3, lines 49-53, col. 4, lines 15-19, and 36-46, col. 6, lines 11-14 and 37-47, col. 7, lines 32-40, col. 8, line 65-col. 10, line 11, and claim 10. See also the discussion of "a wireless communications device" limitation *supra* and claims 2-5 and 8 *infra*. '499 discloses, e.g., interface circuitry, e.g. NETWORK INTERFACE, 320, 107, docking facility, and a temporary wireless communication link, e.g. arrow 7, 14, arrow 3, 9, with

the downloading device, i.e. TCP/IP(an internet/ the Internet), 201, provided by sharing the wireless communications device, e.g. 102, that sends position data, see, e.g. col. 7, lines 32-40, (see also discussion of claims 2-5) and such structure permits downloading of enabling data, e.g. instruction to gather data, vehicle parameter update/change, related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller, e.g. steps 2-6 in Figure 5. Thus '499 discloses or obviously suggests "a downloading interface" and such permits downloading of enabling data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller.

Claim 4

The multi-vehicle compatible tracking unit according to claim 1 wherein said downloading interface comprises a wireless signal downloading interface.

See *Claim Interpretation/Analysis* section and discussion of claim 1 *supra*, "downloading interface for …controller" and "a wireless communications device" limitation *supra* esp. Figure 1, 150, Figure 2, elements 300, 320, Figs. 3-5, elements 107, 102, arrow 7, 14, arrow 3, 9, col. 3, lines 15-32 ("The processor is integrated with a network interface 320 to provide communication capability with the remote service center 200. Preferably, the network interface comprises a removable wireless telephone such as the Motorola i1000+ and a docking facility for the wireless phone integrated with the client computer device. Both voice and data connections can be supported by interfacing the processor 300 and the wireless phone. The telephone integration provides basic communication functions. It establishes a data (e.g. TCP/IP) connection with a remote service center (e.g., remote service center 200). Wireless technologies such as GSM

(Global System for Mobile Communications), CDMA (Code Division Multiple Access), TOMA (Time Division Multiple Access), iDEN™ (a TOMA-based Motorola technology), and AMPS (Advanced Mobile Phone System) can all be supported. The phone may also be used for wireless voice communications.". Therefore '449 discloses or obviously suggests a wireless signal downloading interface.

Claim 5

The multi-vehicle compatible tracking unit according to claim 4 wherein said wireless signal downloading interface comprises a wireless receiver for temporary connection to a downloading device.

See *Claim Interpretation/Analysis* section and discussion of claim 1, "downloading interface for …controller" limitation and "a wireless communications device" limitation, *supra* (e.g. col. 4, lines 39-43, col. 7, lines 32-40col. 9, lines 1-59, i.e. data link/connection 150, arrows 3,9, 7,14, between wireless phone 102 and server 201 opened and terminated during health checkup process). Therefore '499 teaches or obviously suggests a wireless receiver 102 of the wireless signal downloading interface for temporary connection to a downloading device.

Claim 6

The multi-vehicle compatible tracking unit according to claim 1 wherein the corresponding at least one vehicle code is for reading from the at least one vehicle device.

See *Claim Interpretation/Analysis* section and discussion of claim 1 *supra*, e.g. col. 4, lines 15-38 ("The vehicle bus interface 120 is responsible for replying to requests for parametric data. It is also responsible for continuously monitoring the vehicle bus 104 for any fault reported

by the ECUs 103, in terms of diagnostic trouble codes (DTCs). The vehicle bus interface 120 includes the following modules: vehicle bus adapter 120C, fault detector 120B, and diagnostic data service 120A. The fault detector 120B polls the vehicle bus 104 through the vehicle bus adapter 120C checking for fault codes reported by the vehicle ECUs 103. The vehicle bus adapter 120C translates the messages received from the vehicle bus into the language of the fault detector. It also translates messages from the fault detector into the language of the vehicle bus. The fault code specifications and protocols of the vehicle may be Original Equipment Manufacturer (OEM) and model dependent. The term 'vehicle fault codes' is meant to be synonymous with the term 'trouble code' or 'diagnostic trouble code'. A listing of such codes may be found in the publication of the Society of Automotive Engineers, 'SAE On-Board Diagnostics for Light and Medium Duty Vehicles Standards Manual'. The diagnostic data service 120A accepts request for vehicle parametric data and retrieves the data using the vehicle bus adapter." (Emphasis added).), col. 5, lines 25-28 ("Similar to the health checkup request, the in-vehicle system collects and uploads a snapshot of vehicle data including any trouble code reported by the ECUs."), col. 6, lines 55-58 ("In such a case, for example, one or more diagnostic trouble codes, generated by the vehicles' ECUs 103, are detected in the vehicle bus interface 120 by the fault detector 120B. These trouble codes are sent to the fault monitor 420 component of the vehicle client computer device 101. The fault monitor may further process these trouble codes and finally sends them to the diagnostic client 421." (Emphasis added).), col. 8, lines col. 9, lines 35-48 ("Then in step 2, the diagnostic client 421 initiates a health checkup session with the diagnostic server 201, and in step 3, the diagnostic server instructs the diagnostic client to gather vehicle data, such as VIN, malfunction codes, and/or a snapshot of the

vehicle data. Then in step 4, the diagnostic client 421 requests the data from the diagnostic data service 120A at the vehicle bus interface 120. Then, in step 5, the diagnostic data service interrogates the ECUs 103 via the vehicle bus adapter 120C for the requested data. In step 6, the ECUs 103 provide the requested data and in step 71 the data is returned to the diagnostic client 421. Then, in step 8, the data is in turn transmitted to the diagnostic server 201." (Emphasis added).) and paragraph bridging cols. 9-10.

Therefore, since '499 discloses or obviously suggests fault codes or DTC reported or generated by the at least one vehicle device, '499 discloses or obviously suggests the corresponding at least one vehicle code is for reading from the at least one vehicle device.

Claim 7

The multi-vehicle compatible tracking unit according to claim 1 wherein the corresponding at least one vehicle code is for writing to the at least one vehicle device.

See *Claim Interpretation/Analysis* section and discussion of claim 6 *supra.* Since '499 further teaches or obviously suggests the fault codes/DTCs are Original Equipment Manufacturer (OEM) and/or the interface 120 polls or interrogates the ECUS for malfunction or fault codes, '499 discloses or obviously suggest the corresponding at least one vehicle code is for writing to the at least one vehicle device.

Claim 8

The multi-vehicle compatible tracking unit according to claim 1 wherein said downloading interface is also for permitting downloading of at least one programming instruction for said multi-vehicle compatible controller.

See *Claim Interpretation/Analysis* section and discussion of claim 1 *supra,* e.g. '499 at col. 9, lines 28-62 ("Then in step 2, the diagnostic client 421 initiates a health checkup session with the diagnostic server 201, and in step 3, the diagnostic server instructs the diagnostic client to gather vehicle data, such as VIN, malfunction codes, and/or a snapshot of the vehicle data. Then in step 4, the diagnostic client 421 requests the data from the diagnostic data service 120A at the vehicle bus interface 120. Then, in step 5, the diagnostic data service interrogates the ECUs 103 via the vehicle bus adapter 120C for the requested data. In step 6, the ECUs 103 provide the requested data and in step 71 the data is returned to the diagnostic client 421. Then, in step 8, the data is in turn transmitted to the diagnostic server 201." (Emphasis added).), and Figure 5, arrow 3, 9. Note also the paragraph bridging cols. 9-10. Therefore, '499 discloses or obviously suggests the downloading interface, 107/102, receives at least one programming instruction, e.g. data gather instruction, for the controller 300/101.

Claim 11

The multi-vehicle compatible tracking unit according to claim 1 wherein said wireless position determining device comprises a Global Positioning System (GPS) receiver.

See *Claim Interpretation/Analysis* section and discussion of claim 1, preamble and "a vehicle position determining device" limitation, *supra* (e.g. Figure 1, element 317). Therefore '499 discloses a Global Positioning System (GPS) receiver comprising the vehicle position determining device.

Claim 12

The multi-vehicle compatible tracking unit according to claim 1 further comprising a housing containing said vehicle position determining device, said wireless communications device, said multi-vehicle compatible controller, and said downloading interface.

See '499 at, e.g., elements 10, elements 317 and 101 inside box designated 100 "IN-VEHICLE SYSTEM", Figure 2, col. 2, lines 55-56, col. 3, lines 15-61, Figure 3, element 100 "IN VEHICLE SYSTEM" and col. 4, lines 5-9. Therefore, '499 discloses or obviously suggests a housing, e.g. 10, "IN VEHICLE SYSTEM", containing said vehicle position determining device, said wireless communications device, said multi-vehicle compatible controller, and said downloading interface.

Claim 18

A multi-vehicle compatible tracking unit for a vehicle comprising a vehicle data bus extending throughout the vehicle, the multi-vehicle compatible vehicle tracking unit comprising: a vehicle position determining device; a wireless communications device; a multi-vehicle compatible controller for cooperating with said vehicle position determining device and said wireless communications device to send vehicle position information; said multi-vehicle compatible controller to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles; and a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller; said downloading interface comprising a wireless receiver for temporary connection to a downloading device.

See discussion of claims 1 and 4-5 *supra*.

Claim 19

The multi-vehicle compatible tracking unit according to claim 18 wherein the corresponding at least one vehicle code is for reading from the at least one vehicle device.

See discussion of claim 6 *supra*.

Claim 20

The multi-vehicle compatible tracking unit according to claim 18 wherein the corresponding at least one vehicle code is for writing to the at least one vehicle device.

See discussion of claim 7 *supra*.

Claim 21

The multi-vehicle compatible tracking unit according to claim 18 wherein said downloading interface is also for permitting downloading of at least one programming instruction for said multi-vehicle compatible controller.

See discussion of claim 8 *supra*.

Claims 9-10 and 22 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,330,499 to Chou et al (hereinafter also referred to as '499 or Chou) in view of U.S. Patent No. 6,028,537 to Suman et al, (hereinafter also referred to as '537 or Suman).

The patent to Suman includes a/an publication/issue date more than one year prior to the effective filing date of June 3, 2007 of '278, and thus are available as prior art under 35 USC 102(b) and 35 USC 103.

Claim 9

The multi-vehicle compatible tracking unit according to claim 1 further comprising a remote transmitter;

See *Claim Interpretation/Analysis* section and discussion of claims 1 and 8 *supra,* '499 at, e.g., col. 3, lines col. 4, lines 39-42 ("The client computer device 101 performs several functions including communicating to the remote service center 200 by means of the network interface 107 using the cell phone 102."), col. 5, lines 1-3 ("The in-vehicle system establishes a data connection, using a cellular phone 102, with a diagnostic server at the service center 200,…), col. 7, lines 32-40 ("In this case, a data communication link is established through the network interface 320 to the service center 200, and data containing fault codes, DTCs, vehicle parameter values, and vehicle ID information, is sent to the diagnostic server 201. The size of the data stream is estimated to be on the order of 1 kilobyte. Optional information includes a callback number, GPS coordinates, etc. The exchange of information may be repeated more than once before the data link is closed."), col. 9, lines 28-62 ("Referring now to FIG. 5, a health checkup event flow is presented. The numbers of the steps refer to the numbers found in the flow, as shown in FIG. 5…. Then in step 2, the diagnostic client 421 initiates a health checkup session with the diagnostic server 201, and in step 3, the diagnostic server instructs the diagnostic client to gather vehicle data, such as VIN, malfunction codes, and/or a snapshot of the vehicle data. Then in step 4, the diagnostic client 421 requests the data from the diagnostic data service 120A at the vehicle bus interface 120. Then, in step 5, the diagnostic data service interrogates the ECUs 103 via the vehicle bus adapter 120C for the requested data. In step 6, the ECUs 103 provide the requested data, and in step 7, the data is returned to the diagnostic client

421. Then, in step 8, the data is in turn transmitted to the diagnostic server 201.... The diagnostic server 201 prepares a report and transmits it to the client computer 101.... Thereafter, the data connection is terminated. The above-described health checkup process may be completely automated without intervention or involvement by a person at the remote service center."), Figures and claim 1 ("...a communication system, coupled to said client computer device, for providing remote communication of data including data derived from said monitoring systems of the vehicle; and a remote service center including a vehicle data store, a server computer, a diagnostic engine, and a communicator for communicating the results of analysis of vehicle information to said client computer device via said communication system, ..."). Therefore '499 discloses a remote transmitter, e.g., a communicator of the remote service center. See also the remainder of the discussion of this claim.

and wherein said multi-vehicle compatible controller also performs at least one vehicle remote control function responsive to said remote transmitter.

See discussion of this claim *supra* and, e.g., col. 9, line 63-10, line 11 ("The present invention is not limited to the scenarios and embodiments listed above, but instead may be practiced with a plurality of modifications and extensions. For example, remote health monitoring and diagnostics shares many features with other automotive applications and services. It may be desirable to bundle the remote health monitoring and diagnostics with other services or to extend it with related application functions. For example, the remote diagnostics service could certainly be offered on top of an Emergency/Mayday service (e.g., 'OnStar'). Other applications and services that can be developed or bundled as extensions of the diagnostics services include: breakdown service, network diary, vehicle user manual update, OEM Callback

Services, fleet management, theft prevention, vehicle parameter update/change, remote vehicle access, concierge services, etc."). Therefore at the very least '499 suggests the controller, i.e.in-vehicle client computer device 101 and vehicle bus connected interface 120, performing functions, e.g. requests for diagnostic data, responsive to a remote transmitter and remote health/diagnostic services may be practiced/bundled with other services or extensions such as remote vehicle access. However '537 not only teaches a diagnostic system connected to the vehicle bus for remote diagnostics to be performed on the vehicle but also providing remote control to the vehicles accessories in response to a transmitted control signal from a service center, see, e.g., col. 15, line 52-col. 16, line 15 and Fig. 4. Therefore to employ the multi-vehicle compatible controller responsive to a remote transmitter, e.g. the communicator of the remote service center, in '499, if not already, as known from '537 to in order to provide the desired remote vehicle access, e.g. door unlocking, i.e. at least one vehicle remote control function, would have been obvious to one of ordinary skill in the art. Therefore the prior art obviously teaches said multi-vehicle compatible controller also performing at least one vehicle remote control function responsive to said remote transmitter.

Claim 10

The multi-vehicle compatible tracking unit according to claim 9 wherein the at least one vehicle remote control function comprises at least one of a vehicle security function, a remote keyless entry function, and a remote engine starting function.

See discussion of claim 9 *supra*, e.g. the prior art teaches the at least one vehicle remote control function of remote keyless entry.

Claim 22

The multi-vehicle compatible tracking unit according to claim 18 further comprising a remote transmitter; and wherein said multi-vehicle compatible controller also performs at least one vehicle remote control function responsive to said remote transmitter.

See discussion of claim 9 *supra*.

Claims 2-3 and 13-16 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,330,499 to Chou et al (hereinafter also referred to as '499 or Chou) in view of U.S. Patent No. 5,732,074 to Spaur et al (hereinafter also referred to as '074 or Spaur).

The patent to Spaur includes a/an publication/issue date more than one year prior to the effective filing date of June 3, 2007 of '278, and thus are available as prior art under 35 USC 102(b) and 35 USC 103.

Claim 2

The multi-vehicle compatible tracking unit according to claim 1 wherein said downloading interface comprises a wired signal downloading interface.

See discussion of "**a downloading interface…**" and *Claim Interpretation/Analysis* section *supra*, e.g. Figure 2, elements 320 and 300, col. 2, lines 59-63 ("FIG. 2 is a block diagram providing an exemplary component overview for the in-vehicle hardware. The in-vehicle hardware provides a platform for the client computer device 101 and for the system functions shown in the architectural design in FIG. 3. As shown in FIG. 2, the in-vehicle hardware includes a processor 300 coupled with memory 350, a user interface 310, a network

interface 320, a vehicle interface 330, at least one persistent storage device 340, and optional external devices 360."), col. 3, lines 16-32 ("The processor is integrated with a network interface 320 to provide communication capability with the remote service center 200. Preferably, the network interface comprises a removable wireless telephone such as the Motorola i1000+ and a docking facility for the wireless phone integrated with the client computer device. Both voice and data connections can be supported by interfacing the processor 300 and the wireless phone. The telephone integration provides basic communication functions. It establishes a data (e.g. TCP/IP) connection with a remote service center (e.g., remote service center 200). Wireless technologies such as GSM (Global System for Mobile Communications), CDMA (Code Division Multiple Access), TDMA (Time Division Multiple Access), iDEN.TM. (a TDMA-based Motorola technology), and AMPS (Advanced Mobile Phone System) can all be supported. The phone may also be used for wireless voice communications."), col. 3, last paragraph, col. 4, lines 7-9, Figure 3, "NETWORK INTERFACE" 107, and col. 4, lines 39-43. This claim requires the downloading interface comprising a wired signal downloading interface. While '499 teaches the signal downloading interface 320, 107, 102 coupled to the processor 300 and comprising a docking facility "integrated" with the computer device and a removeable cellular phone, it does specifically teach the interface being "wired". See however '074 at, e.g., Figure 2, elements 80-82, 30 and col, 7, lines 45 et seq and thereby, '177 at, e.g., Figures 4 and 7, abstract, lines 1-5, col. 1, first and third full paragraphs, col. 2, lines 4-16, col. 3, second full paragraph, col. 5, lines 60-62, i.e. a known cellular phone/controller/processor interface which is wired. Therefore it would have been obvious to one of ordinary skill in the art to substitute a wired cellular phone interface, e.g., a connector/cable to removeably attach 102 and 107, for the '499 cellular phone

interface, if such is not already "wired", for the predictable result of interconnecting the cellular phone and processor/computer. Therefore the prior art obviously teaches the "downloading interface" comprises a wired signal downloading interface.

Claim 3

The multi-vehicle compatible tracking unit according to claim 2 wherein said wired signal downloading interface comprises a connector for temporary connection to a downloading device.

See *Claim Interpretation/Analysis* section and discussion of claims 1-2 *supra*, e.g., Fig. 3, elements 102 and 107, i.e. cell phone attached to network interface, and col. 3, lines 17-21 and cited portions of '074 and '177. The prior art obviously teaches a connector for temporary connection between 107 and 102 and thereby, the wired signal downloading interface comprising a connector for temporary connection to a downloading device, e.g. an internet, the Internet.

Claim 13

A multi-vehicle compatible tracking unit for a vehicle comprising a vehicle data bus extending throughout the vehicle, the multi-vehicle compatible vehicle tracking unit comprising: a vehicle position determining device; a wireless communications device; a multi-vehicle compatible controller for cooperating with said vehicle position determining device and said wireless communications device to send vehicle position information; said multi-vehicle compatible controller to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles; and a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller; said downloading interface comprising a connector for temporary connection to a downloading device.

See discussion of claims 1-3 *supra*.

Claim 14

The multi-vehicle compatible tracking unit according to claim 13 wherein the corresponding at least one vehicle code is for reading from the at least one vehicle device.

See discussion of claim 6 *supra*.

Claim 15

The multi-vehicle compatible tracking unit according to claim 13 wherein the corresponding at least one vehicle code is for writing to the at least one vehicle device.

See discussion of claim 7 *supra*.

Claim 16

The multi-vehicle compatible tracking unit according to claim 13 wherein said downloading interface is also for permitting downloading of at least one programming instruction for said multi-vehicle compatible controller.

See discussion of claim 8 *supra*.

Claim 17 is rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,330,499 to Chou et al (hereinafter also referred to as '499 or Chou) in view of U.S. Patent No. 6,028,537 to Suman et al, (hereinafter also referred to as '537 or Suman) and U.S. Patent No. 5,732,074 to Spaur et al (hereinafter also referred to as '074 or Spaur).

Claim 17

The multi-vehicle compatible tracking unit according to claim 13 further comprising a remote transmitter; and wherein said multi-vehicle compatible controller also performs at least one vehicle remote control function responsive to said remote transmitter.

See discussion of claim 9 *supra*.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of **KENNETH E. FLICK**	
Request for Reexamination of **U.S. PATENT NO. 8,032,278**	
Control No. **90/013,851**	Attorney Docket No.: **C13-03895(58106CIP1_REX2)**
Confirmation No. **8717**	
Filing Date: **OCTOBER 28, 2016**	Examiner: **K. REICHLE**
For: **VEHICLE TRACKING UNIT WITH DOWNLOADABLE CODES AND ASSOCIATED METHODS**	Art Unit: **3992**

REQUEST FOR ORAL HEARING

EFILE
Commissioner for Patents

Commissioner:

Appellant hereby requests an Oral Hearing for the appeal of the above noted ex *parte* reexamination. Appellant submits herewith the required fee under 37 C.F.R. §41.20(b)(3).

If any additional extension and/or fee is required, authorization is given to charge Deposit Account No. 01-0484.

Respectfully submitted,

JACK GEORGE ABID
Reg. No. 58,237
Allen, Dyer, Doppelt & Gilchrist, P.A.
255 S. Orange Avenue, Suite 1401
Post Office Box 3791
Orlando, Florida 32802
407-841-2330
407-841-2343 fax
Attorney for the Patent Owner

Electronic Acknowledgement Receipt

EFS ID:	33175181
Application Number:	90013851
International Application Number:	
Confirmation Number:	8717
Title of Invention:	Vehicle Tracking Unit with Downloadable Codes and Associated Methods
First Named Inventor/Applicant Name:	8032278
Correspondence Address:	CHRISTOPHER F. REGAN, ESQUIRE ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A. P. O. BOX 3791 - ORLANDO FL 32802-3791 US 407-841-2330 -
Filer:	Jack G. Abid/sheryllee scheibe
Filer Authorized By:	Jack G. Abid
Attorney Docket Number:	C13-03896.RE2
Receipt Date:	13-JUL-2018
Filing Date:	28-OCT-2016
Time Stamp:	15:31:35
Application Type:	Reexam (Patent Owner)

Payment information:

Submitted with Payment	yes
Payment Type	CARD
Payment was successfully received in RAM	$3540

OMEGA EXHIBIT 2036

RAM confirmation Number	071618INTEFSW15323700
Deposit Account	
Authorized User	

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		SS58106OHRESP.pdf	1043114 c8bfb4e7287b845c333faf13f7a8edca8dd321c9	yes	15

Multipart Description/PDF files in .zip description

Document Description	Start	End
Request for Oral Hearing	1	1
Reexam Certificate of Service	2	2
Reply Brief Filed	3	14
Reexam Certificate of Service	15	15

Warnings:

The page size in the PDF is too large. The pages should be 8.5 x 11 or A4. If this PDF is submitted, the pages will be resized upon entry into the Image File Wrapper and may affect subsequent processing

Information:

2	Fee Worksheet (SB06)	fee-info.pdf	32112 863962aec33cbda9bcb1a14253d70ebdc6d7973e	no	2

Warnings:

Information:

Total Files Size (in bytes):	1075226

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

Electronic Patent Application Fee Transmittal

Application Number:	90013851
Filing Date:	28-Oct-2016
Title of Invention:	Vehicle Tracking Unit with Downloadable Codes and Associated Methods
First Named Inventor/Applicant Name:	8032278
Filer:	Jack G. Abid/sheryllee scheibe
Attorney Docket Number:	C13-03896.RE2

Filed as Large Entity

Filing Fees for ex parte reexam

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
REQUEST FOR ORAL HEARING	1403	1	1300	1300
APPEAL FORWARDING FEE	1413	1	2240	2240

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				
Miscellaneous:				
			Total in USD ($)	**3540**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/013,851	10/28/2016	8032278	C13-03896.RE2	8717

7590 08/14/2018

CHRISTOPHER F. REGAN, ESQUIRE
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
P. O. BOX 3791
ORLANDO, FL 32802-3791

EXAMINER
REICHLE, KARIN M

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
08/14/2018	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

United States Patent and Trademark Office

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

CHRISTOPHER F. REGAN, ESQUIRE
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
P. O. BOX 3791
ORLANDO, FL 32802-3791

Appeal No: 2018-008119
Ex Parte Reexamination Control No: 90/013,851
Appellant: Omega Patents, L. L. C. (Patent Owner)

Patent Trial and Appeal Board Docketing Notice

Ex Parte Reexamination Control No. 90/013,851 was received from the Technology Center at the Board on July 31, 2018 and has been assigned Appeal No: 2018-008119.

In all future communications regarding this appeal, please include both the *Ex Parte* Reexamination Control Number and the appeal number.

The mailing address for the Board is:

PATENT TRIAL and APPEAL BOARD
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VIRGINIA 22313-1450

Telephone inquiries can be made by calling 571-272-9797 and referencing the appeal number listed above.

By order of the Patent Trial and Appeal Board.

MAT

cc: Third Party Requester

KPPB LLP
2400 EAST KATELLA AVENUE
SUITE 1050
ANAHEIM, CA 92806

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/013,851	10/28/2016	8032278	C13-03896.RE2	8717

7590 08/14/2018

CHRISTOPHER F. REGAN, ESQUIRE
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
P. O. BOX 3791
ORLANDO, FL 32802-3791

EXAMINER	
REICHLE, KARIN M	

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
08/14/2018	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DO NOT USE IN PALM PRINTER

(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

KPPB LLP

2400 EAST KATELLA AVENUE

SUITE 1050

ANAHEIM, CA 92806

EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. *90/013851*.

PATENT NO. *8032278*.

ART UNIT *3992*.

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(e)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(e)).

United States Patent and Trademark Office

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

CHRISTOPHER F. REGAN, ESQUIRE
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
P. O. BOX 3791
ORLANDO, FL 32802-3791

Appeal No: 2018-008119
Ex Parte Reexamination Control No: 90/013,851
Appellant: Omega Patents, L. L. C. (Patent Owner)

Patent Trial and Appeal Board Docketing Notice

Ex Parte Reexamination Control No. 90/013,851 was received from the Technology Center at the Board on July 31, 2018 and has been assigned Appeal No: 2018-008119.

In all future communications regarding this appeal, please include both the *Ex Parte* Reexamination Control Number and the appeal number.

The mailing address for the Board is:

PATENT TRIAL and APPEAL BOARD
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VIRGINIA 22313-1450

Telephone inquiries can be made by calling 571-272-9797 and referencing the appeal number listed above.

By order of the Patent Trial and Appeal Board.

MAT

cc: Third Party Requester

KPPB LLP
2400 EAST KATELLA AVENUE
SUITE 1050
ANAHEIM, CA 92806

Reexam



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of **KENNETH E. FLICK**	
Request for Reexamination of **U.S. PATENT NO. 8,032,278**	
Control No. **90/013,851**	Attorney Docket No.: **C13-03895(58106CIP1_REX2)**
Confirmation No. **8717**	
Filing Date: **OCTOBER 28, 2016**	Examiner: **K. REICHLE**
For: **VEHICLE TRACKING UNIT WITH DOWNLOADABLE CODES AND ASSOCIATED METHODS**	Art Unit: **3992**

CORRECTED REPLY BRIEF AND FILING UNDER 37 C.F.R. §1.565(a)

MAIL STOP EX PARTE REEXAM
Commissioner for Patents

Commissioner:

Herewith is the Patent Owner's Corrected Reply Brief that is submitted in reply to the Examiner's Answer and in furtherance to Patent Owner's Appeal Brief. The Corrected Reply Brief corrects the header error in the original Reply Brief. If any additional extension and/or fee is required, authorization is given to charge Deposit Account No. 08-0870.

REMARKS

The Examiner is again thanked for the thorough examination of the present application, and for the Examiner's Answer mailed May 14, 2018, including the Response to Argument section. The Patent Owner updates the status of the related applications and litigations, and offers the following arguments for consideration by the Patent Trial and Appeal Board.

I. Update for Related Applications and Litigations

Pursuant to 37 C.F.R. §1.565(a), the Patent Owner has continued to inform the USPTO of the status of related and concurrent proceedings, both within the USPTO and judicial proceedings outside the USPTO.

To that end, in the related litigation between the Patent Owner and Requester, Calamp, which ultimately resulted in a rejection of the Requester's invalidity arguments and a finding of willful infringement, the Requester has on April 20, 2018 filed its appeal brief with the Court of Appeals for the Federal Circuit. The Patent Owner filed its responsive brief on May 30, 2018, and the Requester filed a reply brief on July 2, 2018. The Requester's briefs in the litigation raise no issues with respect to validity of any of the asserted patents (including the '278 patent) in view of the prior art carefully selected and presented at trial.

A second litigation against Enfora, Inc. is currently stayed pending the outcome of this reexamination.

Given the duplicative and sequential nature of the Requester's *ex parte* reexamination requests, the Patent Owner has provided below a chart for updating the USPTO proceedings.

Serial No.	Filing Date	Issued	Patent No.	Status
90/013,659	12/11/15	9/1/17	6,346,876 C1	Ex Parte Reexamination Certificate Issued 9/1/17
90/014,122	4/19/18			Reexamination Ordered 5/2/18
90/013,741	4/28/16	8/1/17	6,756,885 C1	Ex Parte Reexamination Certificate Issued 8/1/17
90/014,038	10/26/17			Office action mailed 5/4/18; Response due 8/4/18
90/013,587	9/14/15	12/28/16	8,032,278 C1	Ex Parte Reexamination Certificate Issued 12/28/16
90/013,851	**10/28/16**			**The Present Reexamination**
90/013,832	10/12/16	8/1/17	7,671,727 C1	Ex Parte Reexamination Certificate Issued 8/1/17
90/014,121	4/10/18			Reexamination Ordered 5/16/18

The Patent Owner submits that the Requester's duplicative and harassing efforts are improper. The Requester, having failed in its initial round of *ex parte* reexamination requests for the litigated patents, is now on to round two. In addition, Patent Owner notes that two of the patents in round two of Requester's filings, the '885 and '876 patents, are already expired.

The Examiner contended that the Patent Owner's only possible remedy for such harassment would have been via a petition that needed to be filed upon the order granting reexamination. Patent Owner points out that Requester's harassing efforts have been ongoing and many occurred after that time.

The Patent Owner submits that such sequential/serial requests for *ex parte* reexamination are a waste of USPTO resources. The Patent Owner submits that the Requester is abusing USPTO procedures in a fashion that is fundamentally unfair to the Patent Owner.

II. The Examiner's Interpretation of the Claims Is In Error

A. Overview

Independent Claims 1, 13 and 18 are rejected as anticipated by Chou et al. or as obvious in view Chou et al. The Chou et al. patent was cited in the parent (7,720,597), grandparent (7,149,623), and great-grandparent (6,606,561) of the present '278 patent. Chou et al. would also have been considered by the Examiner in the '278 patent original prosecution per the MPEP requirement for the Examiner to consider such prior art. Chou et al. would have been known by Requester, Calamp, in the related litigation, but was passed over in favor of other references by Calamp during the litigation, and was also passed over in the first reexamination request of the '278 patent filed by Calamp.

Chou et al. is not an unusually long or complicated reference. Its teachings are straightforward. It includes five drawing figures of which Figures 3, 4 and 5 are essentially the

same, but show signal propagation based upon different scenarios. There are roughly eight columns of text in the detailed description of Chou et al.

Independent Claim 1, for example, of the '278 patent is directed to a vehicle tracking unit that includes three indented sections describing two claim elements that are at issue: the multi-vehicle compatible controller, and the downloading interface. The Patent Owner asserts that the Examiner's claim construction, including these claim terms, is incorrect.

The Patent Owner also submits that Chou et al. fails to disclose the claimed vehicle tracking unit including the multi-vehicle compatible controller and the downloading interface, as these terms are properly construed.

When evaluating the scope of a claim, every limitation in the claim must be considered. USPTO personnel may not dissect a claimed invention into discrete elements and then evaluate the elements in isolation, that is, the claim as a whole must be considered. The Examiner's reading of the claim elements improperly dissects the claimed invention into discrete elements of a "multi-vehicle compatible controller", and a "downloading interface" and evaluates those elements in isolation. The Patent Owner submits that the multi-vehicle compatible controller must be interpreted with respect to the other recitations and elements in the claim, notably its cooperation with the downloading interface and the use of enabling data.

The Patent Owner respectfully submits that the Examiner cannot parse the claim so that the multi-vehicle

controller is only defined by the language appearing in the clause "said multi-vehicle compatible controller to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles". The claimed downloading interface permits downloading of enabling data related to the at least one corresponding vehicle device for use by the multi-vehicle compatible controller.

It is the claimed combination of the multi-vehicle compatible controller and the downloading interface along with the enabling data, and the associated recitations, that provide compatibility among vehicles of different manufacturers and/or different product lines of the same manufacturer, as noted in the specification of the '278 patent.

B. "Different Vehicles" Is Improperly Construed

Independent Claim 1, for example, recites: "said multi-vehicle compatible controller to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles". In the Examiner's Answer, applying the broadest reasonable interpretation (BRI) standard, the Examiner contended that:

> the language of the phrase does not require compatibility among vehicles of different manufacturers and/or different "product" lines of the same manufacturer. See the FINAL Office action at attached Appendix A, first full paragraph of page 11, i.e. "different vehicles" can be, e.g., same make and model with different trims **(not**

> **different electronics)**. Note also attached Appendix A, pages 18-23 and 33-35, in their entirety, as well as the Markman Order agreed construction of the claim term "Multi-vehicle compatible controller" during the related litigation [cite omitted], Evidence Appendix Item 8, page 6, showing "multi-vehicle compatible controller" was construed as electronic circuitry that "can operate with more than one vehicle". (Examiner's Answer, pages 4-5: emphasis added).

The Patent Owner respectfully submits that this interpretation of the above noted claim recitation is erroneous. In short, the Examiner has contended that different vehicles can broadly equate with different vehicles of the same make and model, i.e. having identical electronics ("not different electronics"). By identical electronics, the Examiner must mean electronics operating with the same vehicle device codes.

The Federal Circuit established that claims in reexaminations should be given their "broadest reasonable interpretation, consistent with the specification". *In re Yamamoto*, 740 F.2d 1569, 1571 (Fed. Cir. 1984); and see also MPEP §2258. In the present patent, the specification recites:

> [a] number of patents disclose various security and control systems that address data bus interoperability. For example, U.S. Pat. No. 5,719,551, assigned to Omega Patents, LLC, the assignee of the present invention, discloses a vehicle security system for a vehicle including a data bus connecting a plurality of vehicle devices. A signal enabling circuit enables the alarm controller to operate using a set of desired signals selected from a plurality of possible sets for different vehicles. U.S.

> Pat. No. 6,011,460, assigned to Omega Patents, LLC, discloses a similar system where the set of desired signals from the plurality of different sets of signals for different vehicles is obtained, such as by connection and communication with a downloading device. Additionally, U.S. Pat. No. 6,756,885, also assigned to Omega Patents, LLC, discloses a multi-vehicle control system whereby a multi-vehicle compatible controller stores a set of device codes for a given vehicle device for a plurality of different vehicles. Device codes are read from the data communications bus, and a match between a read device code and the stored device codes is determined to provide compatibility with different vehicles. (Col. 2, lines 17-37).

The '551 patent recites: "[a]s would be readily understood by those skilled in the art, the term different vehicles may include vehicles from different manufacturers, different models, or even different trim levels of the same make and model." (Col. 6, lines 38-42). The Patent Owner submits that interpreting "different vehicles" to include vehicles with identical electronics (using the same vehicle codes) would make no sense to one of skill in the art in view of the specification.

Moreover, such an interpretation is inconsistent with the claims which recite that the multi-vehicle compatible controller is for communication over the vehicle data bus "with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles". The Examiner's interpretation also renders the recitation of "multi-vehicle compatible controller" in the

claims as meaningless - another indicator of an improper claim construction.

The Patent Owner submits that the Examiner's unreasonably broad interpretation of the claims is in error as it is not consistent with the specification or consistent with the claim language of the '278 patent.

C. The Functional Language Is Entitled to Patentable Weight

Independent Claim 1, for example, recites:

> said multi-vehicle compatible controller to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles;
> ...
> a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller.
> (Emphasis added).

Regarding the multi-vehicle compatible controller of the claims, applying the BRI standard, the Examiner contended that: "[t]he phrase requires of corresponding structure merely the capability of using at least one code from among a plurality thereof for 'different vehicles', see again attached Appendix A, pages 11 and 33-35 of the Appendix A, i.e. teaching of such a capability by '499, i.e. capable of using a code from among a plurality thereof, i.e. model dependent." (Examiner's Answer, page 5: emphasis added).

Regarding the downloading interface of the claims, applying the BRI, the Examiner contended that: "the function or

capability of the corresponding structure as 'permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller'." (Examiner's Answer, page 5: emphasis added).

Given the Examiner has issued integrated §102/103 rejections of the same claims, the Patent Owner submits that the Examiner appears to be dismissing the patentable weight of the claimed functional recitations, contending these features are somehow inherent to Chou et al., or that the mere capability of Chou et al.'s system of performing the claimed features would meet the bounds of the claims.

For the §102 rejections, the Patent Owner notes that if a claim element is not expressly disclosed by the prior art, the prior art reference must inherently disclose the claim element to anticipate it. *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). The court went on to state that:

> [t]o establish inherency, the extrinsic evidence "must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill." Continental Can Co. v. Monsanto Co., 948 F.2d 1264, 1268, 20 U.S.P.Q.2D (BNA) 1746, 1749 (Fed. Cir. 1991). "Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient." Id. at 1269, 20 U.S.P.Q.2D (BNA) at 1749 (quoting In re Oelrich, 666 F.2d 578, 581, 212 U.S.P.Q. 323, 326 (C.C.P.A. 1981). Id. at 745. (Emphasis added).

The Patent Owner submits that Chou et al. teaches that the ability to work with different vehicle device codes is provided at the remote service center using the diagnostic server 201 in combination with the data repository 203 (Figure 1) also at the remote service center - and not at the vehicle. Chou et al. provides no disclosure, express or inherent, and no reason, for this capability to be provided at the in-vehicle system.

III. The Admitted Evidence of Secondary Considerations and Declaratory Evidence is Persuasive

The Patent Owner submits that the admitted evidence of secondary considerations properly rebuts the Examiner's contentions of obviousness based upon Chou et al. Indeed, the Patent Owner has submitted evidence of Licensing, Commercial Success, Copying by Others, Customer Need (as noted by Requester's own employee under oath), and Limited Value for Products Without the Invention (as noted by Requester's own employee under oath). Moreover, notwithstanding the contentions of the Examiner in the Examiner's Answer, the Patent Owner has also introduced substantial evidence demonstrating nexus between the evidence and the claimed invention.

The Patent Owner has also submitted evidence from its trial expert, Mr. Joseph McAlexander, having a strong technical background in the relevant technology. Mr. McAlexander details the basis for his conclusions, and such should also be given full consideration.

IV. The Claims Are Patentable Over Chou et al. and the Other Prior Art

The Patent Owner submits that the Examiner has used an improperly broad claim construction. Chou et al. fails to disclose the claimed invention. The Patent Owner submits that independent Claims 1 and 18 are patentable over Chou et al. Spaur et al. is cited for the teaching of a wired connection in the rejection of independent Claim 13, and, the Patent Owner submits that Spaur et al. adds nothing to the deficiencies of Chou et al. Accordingly, independent Claim 13 is also patentable. In view of the patentability of the independent Claims 1, 13 and 18, it is submitted that their dependent claims are also patentable, and require no further discussion herein.

V. CONCLUSION

In view of the foregoing arguments, it is submitted that all of the claims are patentable over the prior art. Accordingly, the PTAB is respectfully requested to reverse the earlier unfavorable decision by the Examiner.

Respectfully submitted,
/JACK ABID/

JACK GEORGE ABID
Reg. No. 58,237
Allen, Dyer, Doppelt, Milbrath
& Gilchrist, P.A.
255 S. Orange Avenue, Suite 1401
Post Office Box 3791
Orlando, Florida 32802
407-841-2330
407-841-2343 fax
Attorney for Patent Owner

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/013,851	10/28/2016	8032278	C13-03896.RE2	8717

7590 08/24/2018

CHRISTOPHER F. REGAN, ESQUIRE
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
P. O. BOX 3791
ORLANDO, FL 32802-3791

EXAMINER
REICHLE, KARIN M

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
08/24/2018	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

The United States Patent and Trademark Office
PATENT TRIAL AND APPEAL BOARD

CHRISTOPHER F. REGAN,
ESQUIRE
ALLEN, DYER, DOPPELT,
MILBRATH & GILCHRIST, P.A.
P. O. BOX 3791
ORLANDO, FL 32802-3791

Appeal No:	2018-008119
Appellant:	8032278, et al.
Reexam	90/013,851
Control No:	A
Hearing Room:	A
Hearing Docket:	Wednesday, October 31, 2018
Hearing Date:	01:00 PM
Hearing Time:	**Madison Building - East Wing**
Location:	**600 Dulany Street, 9th Floor**
	Alexandria, Virginia 22313-1450

NOTICE OF HEARING - ALEXANDRIA, VIRGINIA
RESPONSE REQUIRED WITHIN 21 DAYS

Your attention is directed to 37 CFR § 41.47. The above identified appeal will be heard by the Patent Trial and Appeal Board on the date indicated. Hearings will commence at the time set, and as soon as the argument in one appeal is concluded, the succeeding appeal will be taken up. **The time allowed for argument is 20 minutes** unless additional time is requested and approved before the argument commences. **As the hearing relates to an appeal from a reexamination, the hearing will be open to the public.**

CONFIRMATION OF ATTENDANCE OR WAIVER OF THE HEARING IS REQUIRED WITHIN **21 DAYS** OF THE MAILING DATE OF THIS NOTICE. Failure to respond may subject Appellant(s) to waiver of the oral hearing. If Appellant is no longer interested in having an oral hearing, Appellant must still file a waiver of oral hearing with the Board. This allows the panel to promptly act on the appeal without waiting for the oral hearing date.

Confirmation or waiver of the hearing should be indicated by completing the form below and returning it to the Board. This form may be filed with the Board by any one of the following three alternative methods:

1. Via the USPTO Electronic Filing System (EFS) at http://www.uspto.gov/patents/process/file/efs/
2. ***PREFERRED***: Facsimile transmitted to: The USPTO Central fax number (official copy): **(571) 273-8300** ***and*** the PTAB Hearing fax number (courtesy copy): **(571) 273-9797.**
3. By mail at the PTAB mailing address: Patent Trial and Appeal Board
   United States Patent and Trademark Office
   P.O. BOX 1450
   Alexandria, Virginia 22313-1450

In all communications relating to this appeal, please identify the appeal by its number.

PLEASE ELECT ONE OF THE OPTIONS BELOW:

( ) I ELECT AN IN-PERSON HEARING AND CONFIRM - ATTENDANCE IN **ALEXANDRIA, VIRGINIA** *(EFS-Web selection: Confirmation of Hearing by Appellant)*

( ) I ELECT A TELEPHONIC HEARING - ATTENDANCE CONFIRMED *(EFS-Web selection: Confirmation of Hearing by Appellant)*

( ) I ELECT A VIDEO HEARING - ATTENDANCE CONFIRMED *(EFS-Web selection: Confirmation of Hearing by Appellant)*

( ) I ELECT TO WAIVE HEARING ATTENDANCE *(EFS-Web selection: Waiver of Hearing by Appellant)*

To aid the oral hearings staff in scheduling hearing rooms, please indicate the total number of participating and observing attendees if more than three are expected: _____

To aid the judges in determining whether any conflicts exist that may require a recusal, please list in the 'Comments' section the names of any additional person(s) who will be participating in the oral hearing. (Upon arrival at the **Madison East Building, 9th floor**, all persons presenting arguments must sign in at the Usher's desk.)

Comments/Special Requests:

_____

_____

_____ _____

Typed or Printed Name of Attorney/Agent/Appellant Registration No.

_____ _____

Signature of Attorney/Agent/Appellant Date

The 'Hearings' section of the PTAB webpage http://www.uspto.gov/patents-application-process/patent-trial-and-appeal-board/hearings provides additional information about oral hearings.

Please direct other inquiries to the PTAB Hearings Clerk at 571-272-9797.

COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
IF UNDELIVERABLE RETURN IN TEN DAYS

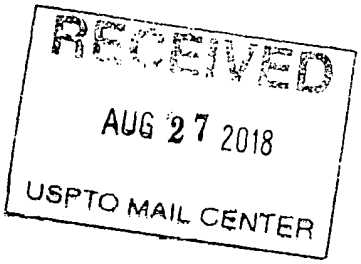
OFFICIAL BUSINESS

AN EQUAL OPPORTUNITY EMPLOYER

ZIP 22314
02 4W
00003553

KPPB LLP
2400 EAST KATELLA AVENUE
SUITE 1050
ANAHEIM, CA 92806

NIXIE 928065467-1N 08/20/18
RETURN TO SENDER
ATTEMPTED - NOT KNOWN


RECEIVED
AUG 27 2018
USPTO MAIL CENTER

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DO NOT USE IN PALM PRINTER

(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

KPPB LLP

2400 EAST KATELLA AVENUE

SUITE 1050

ANAHEIM, CA 92806

EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. *90/013,851*

PATENT NO. *8032278*.

ART UNIT *3992*.

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(e)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(e)).

United States Patent and Trademark Office

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

CHRISTOPHER F. REGAN, ESQUIRE
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
P. O. BOX 3791
ORLANDO, FL 32802-3791

Appeal No: 2018-008119
Ex Parte Reexamination Control No: 90/013,851
Appellant: Omega Patents, L. L. C. (Patent Owner)

Patent Trial and Appeal Board Docketing Notice

Ex Parte Reexamination Control No. 90/013,851 was received from the Technology Center at the Board on July 31, 2018 and has been assigned Appeal No: 2018-008119.

In all future communications regarding this appeal, please include both the *Ex Parte* Reexamination Control Number and the appeal number.

The mailing address for the Board is:

PATENT TRIAL and APPEAL BOARD
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VIRGINIA 22313-1450

Telephone inquiries can be made by calling 571-272-9797 and referencing the appeal number listed above.

By order of the Patent Trial and Appeal Board.

MAT

cc: Third Party Requester

KPPB LLP
2400 EAST KATELLA AVENUE
SUITE 1050
ANAHEIM, CA 92806

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/013,851	10/28/2016	8032278	C13-03896.RE2	8717

7590 08/14/2018

CHRISTOPHER F. REGAN, ESQUIRE
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
P. O. BOX 3791
ORLANDO, FL 32802-3791

EXAMINER	
REICHLE, KARIN M	

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
08/14/2018	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

U.S. POSTAGE PITNEY BOWES

ZIP 22314 $ 000.47⁰
02 4W
0000355386 AUG 24 2018

AN EQUAL OPPORTUNITY EMPLOYER

Organization _____ Bldg./Room _____
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
If Undeliverable Return In Ten Days

Official Business
Penalty For Private Use, $300

NIXIE 911 DE 1 0008/29/18

RETURN TO SENDER
INSUFFICIENT ADDRESS
UNABLE TO FORWARD

BC: 22313145059 *1892-05491-24-39

Reexam

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

OPAP AKIMA-7
SEP 04 2018
PATENT & TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/013,851	10/28/2016	8032278	C13-03896.RE2	8717

7590 08/24/2018

CHRISTOPHER F. REGAN, ESQUIRE
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
P. O. BOX 3791
ORLANDO, FL 32802-3791

EXAMINER	
REICHLE, KARIN M	

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
08/24/2018	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

The United States Patent and Trademark Office
PATENT TRIAL AND APPEAL BOARD



CHRISTOPHER F. REGAN, ESQUIRE
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
P. O. BOX 3791
ORLANDO, FL 32802-3791

Appeal No:	2018-008119
Appellant:	8032278, et al.
Reexam	90/013,851
Control No:	A
Hearing Room:	A
Hearing Docket:	Wednesday, October 31, 2018
Hearing Date:	01:00 PM
Hearing Time:	**Madison Building - East Wing**
Location:	**600 Dulany Street, 9th Floor** **Alexandria, Virginia 22313-1450**

NOTICE OF HEARING - ALEXANDRIA, VIRGINIA
RESPONSE REQUIRED WITHIN 21 DAYS

Your attention is directed to 37 CFR § 41.47. The above identified appeal will be heard by the Patent Trial and Appeal Board on the date indicated. Hearings will commence at the time set, and as soon as the argument in one appeal is concluded, the succeeding appeal will be taken up. **The time allowed for argument is 20 minutes** unless additional time is requested and approved before the argument commences. **As the hearing relates to an appeal from a reexamination, the hearing will be open to the public.**

CONFIRMATION OF ATTENDANCE OR WAIVER OF THE HEARING IS REQUIRED WITHIN **21 DAYS** OF THE MAILING DATE OF THIS NOTICE. Failure to respond may subject Appellant(s) to waiver of the oral hearing. If Appellant is no longer interested in having an oral hearing, Appellant must still file a waiver of oral hearing with the Board. This allows the panel to promptly act on the appeal without waiting for the oral hearing date.

Confirmation or waiver of the hearing should be indicated by completing the form below and returning it to the Board. This form may be filed with the Board by any one of the following three alternative methods:

1. Via the USPTO Electronic Filing System (EFS) at http://www.uspto.gov/patents/process/file/efs/
2. ***PREFERRED***: Facsimile transmitted to: The USPTO Central fax number (official copy): **(571) 273-8300** ***and*** the PTAB Hearing fax number (courtesy copy): **(571) 273-9797.**
3. By mail at the PTAB mailing address: Patent Trial and Appeal Board
   United States Patent and Trademark Office
   P.O. BOX 1450
   Alexandria, Virginia 22313-1450

In all communications relating to this appeal, please identify the appeal by its number.

PLEASE ELECT ONE OF THE OPTIONS BELOW:

( ) I ELECT AN IN-PERSON HEARING AND CONFIRM - ATTENDANCE IN **ALEXANDRIA, VIRGINIA** *(EFS-Web selection: Confirmation of Hearing by Appellant)*

( ) I ELECT A TELEPHONIC HEARING - ATTENDANCE CONFIRMED *(EFS-Web selection: Confirmation of Hearing by Appellant)*

( ) I ELECT A VIDEO HEARING - ATTENDANCE CONFIRMED *(EFS-Web selection: Confirmation of Hearing by Appellant)*

( ) I ELECT TO WAIVE HEARING ATTENDANCE *(EFS-Web selection: Waiver of Hearing by Appellant)*

To aid the oral hearings staff in scheduling hearing rooms, please indicate the total number of participating and observing attendees if more than three are expected: _____

To aid the judges in determining whether any conflicts exist that may require a recusal, please list in the 'Comments' section the names of any additional person(s) who will be participating in the oral hearing. (Upon arrival at the **Madison East Building, 9th floor**, all persons presenting arguments must sign in at the Usher's desk.)

Comments/Special Requests:

_____

_____

_____ _____

Typed or Printed Name of Attorney/Agent/Appellant Registration No.

_____ _____

Signature of Attorney/Agent/Appellant Date

The 'Hearings' section of the PTAB webpage http://www.uspto.gov/patents-application-process/patent-trial-and-appeal-board/hearings provides additional information about oral hearings.

Please direct other inquiries to the PTAB Hearings Clerk at 571-272-9797.

cc: Third Party Requester

KPPB LLP
2400 EAST KATELLA AVENUE
SUITE 1050
ANAHEIM, CA 92806

Best Available Copy

Allen, Dyer, Doppelt + Gilchrist, PA
INTELLECTUAL PROPERTY LAW

Orlando Office (Main)
255 South Orange Ave.
Suite 1401
Orlando, Florida 32801
Mail To: P.O. Box 3791
Orlando, Florida 32802

Tel: 407-841-2330
Fax: 407-841-2343

FAX COVERSHEET

TO: **Patent Trial and Appeal Board**

CLIENT NUMBER: C13-03895(58106CIP1-REX2)

FAX: (571) 273-8300 (courtesy copy): (571) 273-9797

FROM: JACK G. ABID, ESQ.

DATE: September 14, 2018

NUMBER OF PAGES (INCLUDING COVER SHEET): 3

Re: Appeal No. 2018-008119
U.S. Patent Application Control No. 90/013,851

Attached are the following documents:

1. Election Of In-Person Hearing And Confirmation

NOTE: The information in this facsimile transmission is intended only for the personal and confidential use of the designated recipient(s) named above. This message may be an attorney-client communication and as such is privileged.

If the reader of this message is not the intended recipient named above, you are notified that you have received this document in error, and any review, dissemination, distribution or copying of this message is strictly prohibited.

If you have received this document in error, please notify this office immediately via telephone, and return the original message to the above address by mail. Thank you.

IF YOU DO NOT RECEIVE ALL OF THE PAGES OR ENCOUNTER DIFFICULTIES IN TRANSMISSION, PLEASE CONTACT THE RECEPTIONIST IMMEDIATELY AT (407) 841-2330

Appeal No. 2018-008119

In re Patent of KENNETH E. FLICK
U.S. PATENT NO. 8,032,278
Control No. 90/013,851
Attorney Docket No.: C13-03895(58106CIP1_REX2)

PLEASE ELECT ONE OF THE OPTIONS BELOW:

(X) I ELECT AN IN-PERSON HEARING AND CONFIRM - ATTENDANCE IN **ALEXANDRIA, VIRGINIA** *(EFS-Web selection: Confirmation of Hearing by Appellant)*

( ) I ELECT A TELEPHONIC HEARING - ATTENDANCE CONFIRMED *(EFS-Web selection: Confirmation of Hearing by Appellant)*

( ) I ELECT A VIDEO HEARING - ATTENDANCE CONFIRMED *(EFS-Web selection: Confirmation of Hearing by Appellant)*

( ) I ELECT TO WAIVE HEARING ATTENDANCE *(EFS-Web selection: Waiver of Hearing by Appellant)*

To aid the oral hearings staff in scheduling hearing rooms, please indicate the total number of participating and observing attendees if more than three are expected: ____
To aid the judges in determining whether any conflicts exist that may require a recusal, please list in the 'Comments' section the names of any additional person(s) who will be participating in the oral hearing. (Upon arrival at the **Madison East Building, 9th floor**, all persons presenting arguments must sign in at the Usher's desk.)

Comments/Special Requests:

Attorney Christopher F. Regan (USPTO REG. No. 34,906)

JACK G. ABID	58,237
Typed or Printed Name of Attorney/Agent/Appellant	Registration No.
/Jack Abid/	9-14-18
Signature of Attorney/Agent/Appellant	Date

The 'Hearings' section of the PTAB webpage http://www.uspto.gov/patents-application-process/patent-trial-and-appeal-board/hearings provides additional information about oral hearings.

Please direct other inquiries to the PTAB Hearings Clerk at 571-272-9797.

Best Available Copy

First Named Inventor:
Kenneth E. FLICK
Reexamination Serial No. **90/013,851**
Filed: **OCTOBER 28, 2016**
_____/

CERTIFICATE OF SERVICE

Certificate of Service in compliance with 37 C.F.R. §1.530(c)

Pursuant to 37 C.F.R. §§1.530(c), 1.248, I hereby certify that on September 14, 2018, a complete copy of this Filing is being served via First Class U.S. Mail upon Third Party Requester at the correspondence address as shown in PAIR:

KPPB LLP
2400 EAST KATELLA AVENUE
SUITE 1050
ANAHEIM, CA 92806

Respectfully submitted,

Jack Abid

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/013,851	10/28/2016	8032278	C13-03896.RE2	8717

7590 11/13/2018

CHRISTOPHER F. REGAN, ESQUIRE
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
P. O. BOX 3791
ORLANDO, FL 32802-3791

EXAMINER
REICHLE, KARIN M

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
11/13/2018	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte OMEGA PATENTS, L.L.C.
Patent Owner and Appellant

Appeal 2018-008119
Reexamination Control 90/013,851
United States Patent 8,032,278 B2
Technology Center 3900

Before JOHN A. JEFFERY, MARC S. HOFF, and ERIC B. CHEN, *Administrative Patent Judges*.

JEFFERY, *Administrative Patent Judge*.

DECISION ON APPEAL

Patent Owner appeals under 35 U.S.C. §§ 134 and 306 the Examiner's decision to reject claims 1–22. We have jurisdiction under 35 U.S.C. §§ 134 and 306, and we heard the appeal on October 31, 2018. We reverse.

STATEMENT OF THE CASE

This proceeding arose from a request for *ex parte* reexamination filed on October 28, 2016 of United States Patent 8,032,278 ("the '278 patent"), issued to Kenneth E. Flick on October 4, 2011.

The '278 patent describes a tracking unit that is compatible with multiple vehicles. To this end, the tracking unit includes a multi-vehicle compatible controller that communicates with a vehicle device using a corresponding vehicle device code from among plural codes. The unit also has a downloading interface that permits downloading enabling data related to the corresponding vehicle device code, where enabling data may be (1) the vehicle device code; (2) an instruction to select a code from among those already stored; or (3) the data or sequence to allow the controller to generate the vehicle device code. *See generally* '278 patent, Abstract; col. 23, l. 41 – col. 24, l. 4.

Claim 1 is illustrative of the invention and is reproduced below:

1. A multi-vehicle compatible tracking unit for a vehicle comprising a vehicle data bus extending throughout the vehicle, the multi-vehicle compatible tracking unit comprising:
    a vehicle position determining device;
    a wireless communications device;
    a multi-vehicle compatible controller for cooperating with said vehicle position determining device and said wireless communications device to send vehicle position information;

said multi-vehicle compatible controller to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles; and

a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller.

RELATED PROCEEDINGS

This appeal is said to be related to various proceedings. First, Appellant informs us that briefs have been filed with the Court of Appeals for the Federal Circuit in connection with related litigation between Patent Owner and Requester (CalAmp). App. Br. 7–8; Reply Br. 2.[1] Also, a second litigation against Enfora, Inc. is said to be stayed pending the outcome of this reexamination. App. Br. 9; Reply Br. 2.

Appellant also informs us of seven other *ex parte* reexamination proceedings involving four patents, one of which (Control No. 90/013,587) resulted in issuing a reexamination certificate confirming patentability of the '278 patent's claims. *See* App. Br. 9–12; Reply Br. 3; *see also* US 8,032,278 C1, issued Dec. 28, 2016.

THE REJECTIONS

The Examiner rejected claims 1, 4–8, 11, 12, and 18–21 under 35 U.S.C. § 102(b) as anticipated by Chou (US 6,330,499 B1; issued Dec.

[1] Throughout this opinion, we refer to (1) the Appeal Brief filed February 27, 2018 ("App. Br."); (2) the Examiner's Answer mailed May 14, 2018 ("Ans."); and (3) the Reply Brief filed July 13, 2018 ("Reply Br.").

11, 2011), or, alternatively, under 35 U.S.C. § 103 as obvious over Chou. Ans. 30–42.

The Examiner rejected claims 9, 10, and 22 under 35 U.S.C. § 103 as obvious over Chou and Suman (US 6,028,537; issued Feb. 22, 2000). Ans. 42–46.

The Examiner rejected claims 2, 3, and 13–16 under 35 U.S.C. § 103 as obvious over Chou and Spaur (US 5,732,074; issued Mar. 24, 1998). Ans. 46–49.

The Examiner rejected claim 17 under 35 U.S.C. § 103 as obvious over Chou, Suman, and Spaur. Ans. 50.

PROCEDURAL MATTERS

Before addressing the merits of the Examiner's rejections at issue in this appeal, we first address several procedural matters. First, Appellant's contention that the Examiner improperly refused to enter various exhibits attached to the Final Office Action (App. Br. 16–19) is a petitionable—not appealable—matter and is, therefore, not before us.[2] *Accord* Ans. 3 (noting this petitionable matter).

We reach the same conclusion regarding Appellant's contention that the present reexamination was allegedly improperly granted. App. Br. 54–

[2] *See* MPEP § 706.01 ("[T]he Board will not hear or decide issues pertaining to objections and formal matters which are not properly before the Board."); *see also* MPEP § 1201 ("The Board will not ordinarily hear a question that should be decided by the Director on petition . . . .").

61. To be sure, the propriety of an Examiner's determination that a substantial new question of patentability (SNQ) exists in an *ex parte* reexamination proceeding is appealable to this Board so long as certain procedural requirements are satisfied. *See* MANUAL OF PATENT EXAMINING PROCEDURE (MPEP) § 2274(VI) (9th ed. Rev. 08.2017, Jan. 2018).

But that is not the case where, as here, Appellant does not squarely address—let alone persuasively rebut—the Examiner's SNQ determination. *See* App. Br. 54–61. Rather, Appellant argues that due to the alleged inequities of multiple reexamination requests against the same claims of the same patent in this proceeding, we should apply a standard similar to that used by the Board in deciding to institute trials for follow-on petitions in *inter partes* review proceedings. *See id.*

We decline to do so here. Not only are Appellant's procedural grievances petitionable matters, they do not show error in the Examiner's SNQ determination. To the extent Appellant contends otherwise, we disagree.

THE OBVIOUSNESS REJECTION OVER CHOU

The Examiner finds that Chou discloses or suggests every recited element of independent claim 1 including a multi-vehicle compatible controller (e.g., processor 300 and memory 350) to be coupled to a vehicle data bus 140 for communication thereover with at least one vehicle device (electronic control unit (ECU) 103) using at least one vehicle device code, namely a diagnostic trouble code (DTC) or fault code, from among a plurality thereof for different vehicles. Ans. 31–35. The Examiner reasons

that because Chou's fault code is vehicle model dependent, the code can be used by the vehicle device from among plural such codes. *See* Ans. 4–5, 35. The Examiner adds that Chou also discloses or suggests a downloading interface (e.g., network interface 107, 320) for permitting downloading "enabling data" (e.g., instructions to gather data and vehicle parameter changes) related to at least one corresponding vehicle device code for use by the controller. Ans. 35–36.

Appellant argues that Chou does not teach or suggest the recited multi-vehicle compatible controller and downloading interface. App. Br. 19–35; Reply Br. 4–11. Although Appellant acknowledges that Chou's vehicle-dependent fault codes are listed in a Society of Automotive Engineers (SAE) publication, Appellant nonetheless emphasizes that these codes lack uniformity between manufacturers, and even within product lines of the same manufacturer—a problem that is said to be addressed by the claimed invention. App. Br. 24–26. According to Appellant, the Examiner's equating different vehicles in the context of the claimed invention to those of the same make and model, namely vehicles with identical electronics and vehicle codes, but with different trims, is inconsistent with the disclosure and, therefore, unreasonable. Reply Br. 6–9.

Appellant also argues that Chou does not teach or suggest the recited downloading interface, but rather merely passes data between an in-vehicle system and a remote service center. App. Br. 25–29. According to Appellant, Chou teaches away from the claimed invention by working with different vehicle codes at the service center—not the vehicle. App. Br. 35–38. Appellant adds that evidence of secondary considerations of non-

obviousness, including licensing, commercial success, copying by others, customer need, and the limited value for accused products without the invention, further rebuts the Examiner's obviousness rejection. App. Br. 38–54; Reply Br. 11.

ISSUE

Under § 103, has the Examiner erred in rejecting claim 1 by finding that Chou would have taught or suggested the recited multi-vehicle compatible controller and downloading interface?

ANALYSIS

We begin by construing a key disputed limitation of claim 1 which recites, in pertinent part, a multi-vehicle compatible controller. The Specification does not define the term, but does describe a multi-vehicle compatible controller 111 in Figure 10 that includes, among other things, a central processing unit 126 and input/output (I/O) circuitry 127 that interfaces with a vehicle device 121 using at least one corresponding vehicle device code from plural codes for different vehicles. '278 patent, col. 23, ll. 59–67. The corresponding vehicle code may be for reading from, or writing to, the vehicle device. *Id.* col. 23, l. 67 – col. 24, l. 3.

In related litigation involving the '278 patent, a U.S. District Court construed the term "multi-vehicle compatible controller" as "electronic circuitry that performs one or more control functions, and can operate with more than one vehicle"—a construction that neither party disputed. *See Omega Patents, LLC v. CalAmp Corp.*, No. 6:13-cv-1950-Orl-40DAB,

(M.D. Fla. Feb. 20, 2015) ("Dist. Ct. Claim Construction Order"), at 6, 24, *cited in* App. Br. Rel. Proc. App. ("Item 8"). Although we apply a claim construction standard in *ex parte* reexamination proceedings different from that used by the court, we nonetheless find that the court's construction is consistent with the term's broadest reasonable interpretation in light of the Specification. *Accord Power Integrations, Inc. v. Lee*, 797 F.3d 1318, 1326–27 (Fed. Cir. 2015) (emphasizing the Board's obligation to (1) evaluate a district court's claim construction for terms at issue, and (2) determine whether that construction is consistent with the term's broadest reasonable interpretation).

Claim 1 further recites that the multi-vehicle compatible controller can communicate with at least one vehicle device using at least one corresponding vehicle device code from among plural device codes for different vehicles. The district court construed the term "device codes" as "signal from a vehicle device," Dist. Ct. Claim Construction Order at 17, 25—a construction that is likewise consistent with its broadest reasonable interpretation. Although the court did not construe the term "different vehicles," the '278 patent in column 22, lines 3 to 7 incorporates by reference a related patent, namely U.S. Patent No. 5,719,551 ("the '551 patent"), which explains that "the term different vehicles may include vehicles from different manufacturers, different models, or even different trim levels of the same make or model." '551 patent, col. 6, ll. 38–42. *Accord* Reply Br. 8 (acknowledging this explanation).

The term "trim level" in a vehicular context refers to a version of a vehicle model that comes equipped with a set combination of features. *See*

What is a Vehicle Trim Level?, THE NEWSWHEEL, http://thenewswheel.com/what-is-a-vehicle-trim-level (Oct. 27, 2017) ("Newswheel"). In defining "trim level," this article explains that although trim packages previously were typically purely aesthetic and only added non-functional touches like chrome accents and upholstery stitching, many automakers today include sets of higher-technology features and/or performance upgrades in trim packages, resulting in offering as many as 6–10 different trim levels for a given vehicle model. *Id.*

Although the Examiner construes the recited term "different vehicles" to include vehicles that are the same make and model but with different trims consistent with the '551 patent, the Examiner nonetheless includes vehicles whose *electronics are not different* as "different vehicles." *See* Ans. 4.

We find this construction problematic on this record. To be sure, Newswheel indicates that differences among trim packages were formerly purely aesthetic and non-functional, thus suggesting that the electronics in these vehicles in these different trim packages would be the same despite the vehicles' aesthetic differences.

But as Appellant indicates (Reply Br. 6–9), vehicles with identical electronics would use the same vehicle codes and, therefore, their inclusion runs counter to the functionality of the recited *multi-vehicle compatible* controller that can communicate with a vehicle device using at least one corresponding vehicle device code *from among plural codes for different vehicles*. Indeed, this compatibility with different vehicles and their different codes is a fundamental aspect of the claimed invention that solves a

longstanding problem in the art as Appellant indicates. *See* App. Br. 32 (noting that the lack of vehicle code compatibility among different vehicles for vehicle tracking units is the problem addressed by the '278 patent). To the extent that the Examiner construes the different vehicles in claim 1 to include those with the same vehicle codes, we find such a construction unreasonable when interpreted in light of the Specification.

In reaching this conclusion, we emphasize that the broadest reasonable interpretation in light of the Specification is not whether the Specification precludes some broad reading of the claim term adopted by the Examiner. *See In re Smith Int'l, Inc.*, 871 F.3d 1375, 1382–83 (Fed. Cir. 2017). Nor is the broadest reasonable interpretation simply one that is not inconsistent with the Specification. *Id.* at 1383. Rather, it is an interpretation that corresponds with what and how the inventor describes his invention in the Specification, that is, an interpretation consistent with the Specification. *Id.* (citing *In re Suitco Surface*, 603 F.3d 1255, 1259–60 (Fed. Cir. 2010)).

Therefore, we find the Examiner's reliance on Chou for teaching the recited multi-vehicle compatible controller problematic on this record. In Chou, a vehicle's ECUs 103 (which the Examiner maps to the recited "vehicle device" (*see* Ans. 35)) report fault codes to fault detector 120B via vehicle bus 140 and vehicle bus adapter 120C, the latter translating messages received from the bus into the language of the fault detector and vice-versa. Chou, col. 4, ll. 20–28; Fig. 3. Although these fault codes' specifications and protocols depend on the manufacturer and vehicle model,

and the codes are listed in an SAE publication,[3] that does not mean that Chou's controller is *compatible with multiple vehicles*, where the controller can communicate with a vehicle device using at least one corresponding vehicle device code from among plural codes for different vehicles as claimed. Indeed, this very SAE publication acknowledges the lack of uniformity in these codes between manufacturers and, in some cases, within the same manufacturer across different product lines. *See* App. Br. 26–27, 32 (quoting a passage from page 39 of the SAE HS-3000 manual). *Accord* Declaration by Joseph C. McAlexander, III Under 37 C.F.R. § 1.132, dated June 12, 2017 ("2017 McAlexander Decl.") ¶ 13 (quoting this passage). *See also* Rule 132 Declaration by Michael J. Suman, dated July 5, 2016 ("Item 4) ("Suman Decl.") ¶¶ 11–12 (declaring that, at the time of his U.S. Patent 6,028,537 whose provisional application was filed June 14, 1996, vehicle device codes were (1) proprietary to different manufacturers, (2) not made freely available, and (3) difficult to obtain). *Accord* Rule 132 Declaration By Joseph C. McAlexander, III, dated July 6, 2016 ("Item 5") ("2016 McAlexander Decl.") ¶ 10 (corroborating this testimony).

At best, Chou's controller is compatible with *one* vehicle, namely the particular vehicle whose fault codes correspond to that particular vehicle for which the controller was designed. *Accord* App. Br. 32 (noting that Chou's ECUs use their own respective trouble codes that are different for different vehicles). Although Chou's remote service center can work with different

[3] Chou refers to this publication as "SAE On-Board Diagnostics for Light and Medium Duty Vehicles Standards Manual." Chou, col. 4, ll. 33–36. For brevity and consistency, we refer to this manual consistent with Appellant's nomenclature, namely "SAE HS-3000." *See* App. Br. 25.

vehicle device codes using a server 201 and repository 203 in Figure 1 as Appellant acknowledges (App. Br. 37), Chou does not teach or suggest providing such a capability in a vehicle.

Nor do we find that Chou teaches or suggests the recited downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by the multi-vehicle compatible controller. In the related litigation, the District Court did not construe the term "downloading interface," but did construe the term "enabling data" as data relating to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller—a construction that matches the terms in the claim. *See* Dist. Ct. Claim Construction Order at 20–23, 25.

According to the Specification, enabling data *may be, for example,* (1) the vehicle device code or codes; (2) an instruction to select a code or codes from among those already stored; or (3) the data or sequence to allow the controller 111 to generate the vehicle device code or codes. '278 patent, col. 24, ll. 9–13. Our emphasis on the permissive and exemplary language in this passage underscores that enabling data is not limited to these three alternatives.

But despite this non-limiting description, what is clear from Appellant's disclosure is that downloading enabling data via the recited interface enables the recited controller to use a *particular* vehicle device code from among plural such codes for different vehicles by providing either (1) the code itself to the controller, or (2) data that otherwise enables the

controller to select or generate the code. *See* '278 patent, col. 24, l. 5 – col. 25, l. 28; Figs. 10–13.

Turning to the rejection, the Examiner refers to, among other things, Chou's network interface 320 and external device in Figure 2, as well as network interface 107 and cell phone 102 in Figure 3, in connection with the recited downloading interface. *See* Ans. 5–6, 35–36.

As shown in Chou's Figures 2 and 3, Chou's network interface 320 communicates wirelessly with remote service center 200 whose diagnostic server 201 accesses vehicle-related data, including diagnostics and failure mode data. *See* Chou, col. 3, ll. 15–32; col. 5, ll. 33–39. In one aspect, the diagnostic server sends a health report to a vehicle's client computer device 101, where the report is based on trouble codes reported by the client. Chou, col. 6, ll. 1–14. If a fault or fault potential is identified, the server (1) informs the vehicle's client computer device via the data connection, and (2) compiles the relevant data and creates a case for an associated call center system 202 to handle. Chou, col. 6, ll. 15–19.

Chou's system can also provide vehicle health checkups upon driver request. *See* Chou, col. 8, l. 65 – col. 10, l. 11; Fig. 5. After the driver triggers a health checkup session, vehicle data, including trouble codes, are sent to the diagnostic server where this information is compared with that stored in a repository, and a corresponding report is prepared and sent back to the vehicle for display. Chou, col. 9, ll. 1–59; Fig. 5.

Although this functionality facilitates downloading vehicle-related data and is, therefore, a "downloading interface" at least in that sense, it nevertheless does not permit downloading the *particular enabling data*

recited in the claim. As noted previously, this enabling data enables the recited controller to use a *particular* vehicle device code from among plural such codes for different vehicles by providing either (1) the code itself to the controller, or (2) data that otherwise enables the controller to select or generate the code. *See* '278 patent, col. 24, l. 5 – col. 25, l. 28; Figs. 10–13. To the extent that the Examiner finds that the data contained in the report sent from Chou's diagnostic server to the vehicle somehow contains this particular enabling data, there is no evidence on this record to substantiate such a finding.

Therefore, we agree with Appellant that Chou does not teach or suggest the recited multi-vehicle compatible controller and downloading interface. Although this deficiency is dispositive regarding our reversing the Examiner's obviousness rejection, we add that Appellant's evidence of secondary considerations of non-obviousness, including licensing, commercial success, copying by others, customer need, and the limited value for accused products without the invention (App. Br. 38–54; Reply Br. 11; 2017 McAlexander Decl. ¶ 19), only further weighs in favor of Appellant.

Therefore, we are persuaded that the Examiner erred in rejecting (1) independent claim 1; (2) independent claim 18 which recites commensurate limitations; and (3) dependent claims 4–8, 11, 12, and 19–21 for similar reasons. Because this issue is dispositive regarding our reversing the Examiner's obviousness rejection of these claims, we need not address Appellants' other associated arguments including whether Chou teaches away from the claimed invention. *See* App. Br. 35–38.

THE ANTICIPATION REJECTION

Although Appellant's arguments regarding (1) the submitted evidence of secondary considerations of non-obviousness (App. Br. 38–54; Reply Br. 11), and (2) Chou teaching away from the claimed invention (App. Br. 35–38) are irrelevant to the Examiner's anticipation rejection over Chou (Ans. 30–42),[4] we nonetheless find that Chou does not necessarily disclose the recited multi-vehicle compatible controller and downloading interface expressly or inherently for the reasons previously discussed.

Therefore, we are persuaded that the Examiner erred in rejecting (1) independent claim 1; (2) independent claim 18 which recites commensurate limitations; and (3) dependent claims 4–8, 11, 12, and 19–21 for similar reasons.

THE OTHER OBVIOUSNESS REJECTIONS

Because the Examiner has not shown that the additional cited prior art cures Chou's above-noted deficiencies, we will not sustain the obviousness rejections of claims 2, 3, 9, 10, 13–17, and 22 (Ans. 42–50) for similar reasons.

---

[4] *See, e.g.*, *Leggett & Platt, Inc. v. VUTEk, Inc.*, 537 F.3d 1349, 1356 (Fed. Cir. 2008) ("'[T]eaching away' is irrelevant to anticipation."); *see also Cohesive Technologies, Inc. v. Waters Corp.*, 543 F.3d 1351, 1364 (Fed. Cir. 2008) ("[O]bviousness requires analysis of secondary considerations of nonobviousness, while secondary considerations are not an element of a claim of anticipation.").

CONCLUSION

The Examiner erred in rejecting (1) claims 1, 4–8, 11, 12, and 18–21 under § 102, and (2) claims 1–22 under § 103.

DECISION

The Examiner's decision to reject claims 1–22 is reversed.

Requests for extensions of time in this *ex parte* reexamination proceeding are governed by 37 C.F.R. § 1.550(c). *See* 37 C.F.R. § 41.50(f).

REVERSED

PATENT OWNER:

CHRISTOPHER F. REGAN, ESQUIRE
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
P. O. BOX 3791
ORLANDO FL 32802-3791

THIRD PARTY REQUESTERS:

KPPB LLP
2190 S. TOWNE CENTRE PLACE
SUITE 300
ANAHEIM, CA 92806

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/013,851	10/28/2016	8032278	C13-03896.RE2	8717

7590 11/16/2018

CHRISTOPHER F. REGAN, ESQUIRE
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
P. O. BOX 3791
ORLANDO, FL 32802-3791

EXAMINER	
REICHLE, KARIN M	

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
11/16/2018	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

RECORD OF ORAL HEARING

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte OMEGA PATENTS, L.L.C.
Patent Owner and Appellant

Appeal 2018-008119
Reexamination Control 90/013,851
Technology Center 3900

Oral Hearing Held: October 31, 2018

Before JOHN A. JEFFERY, MARC S. HOFF, and ERIC B. CHEN, *Administrative Patent Judges.*

APPEARANCES:

ON BEHALF OF THE APPELLANT:

CHRISTOPHER F. REGAN, Esq.
Allen, Dyer, Doppelt, & Gilchrist, PA
1135 E. State Road 434
Suite 3001
Winter Springs, Florida 32708
(407) 841-2330
cregan@allendyer.com

The above-entitled matter came on for hearing on Wednesday, October 31, 2018, commencing at 1:00 p.m. at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

PROCEEDINGS

- - - -

1:08 p.m.

JUDGE JEFFERY: So, this is for re-examination Control No. 90/013,851. We have Judge Chen joining us remotely there on the screen, with Judge Hoff in the room. And you have 20 minutes and you can begin whenever you like.

MR. REGAN: Okay. Thank you. So, the idea is to, is to get to the claim as quickly as possible, so I'm assume you have access to the 278 Patent, correct?

JUDGE JEFFERY: Yes.

MR. REGAN: So, if you could just look at the face page of that, I'll walk quickly through it, and go through our claim, and then we'll move on to the claim construction and prior art. So, if you look at the cover sheet, you can see that this has a whole group of continuations, continuations, in part based upon provisionals. Again, there's probably a family of 20 or so patents that came out of this work by Mr. Flick.

So, if we look at Figure 2 of the patent, this is some of the basic structure of the tracking unit. Again, it has a number of features that we're not interested in, but just show you it's part of a complete package. So, with that, let's go more quickly to Figure 10, because that's where we're interested in the claims in the appeal today.

So, in Figure 10, this is a simplified version, of course, of the invention, but the idea here is that we can build in some capability into the tracker. We can allow it to talk, for example, to the data bus, and now I can do very interesting functions, like remote start and vehicle security, I can

lock and unlock the doors if I can just get into that data bus. So, one of the problems with that, of course, is that if you're not careful, a lot of cars -- most cars have different codes, so there's a whole slew of different codes that are required for different cars, and that's part of what Mr. Flick's work is about.

So, we started this in the mid-'90s, and he took that multi-vehicle compatible idea and extended it to vehicle security, for example. So, this is that now extended to vehicle tracking, but to make that work, you have to have some way that you can have one box, one tracking unit, but still be able to have it operate with multiple different types of vehicles.

So, the way that's done in this patent, as the claim is in the second, "This is downloading interface schematically shown, Block 116, in Figure 10." And with that, we're able to get the controller that's to the left to be able to have the right set of codes so it can work for the devices that are actually in the vehicle, so at a high level, that's what's going on.

So, just skipping to the next page, there's Figure 11, 12, and 13, some different versions of it, whether downloading interface can be wireless, "It can be a hard wire and it's typically a temporary connection, the data is downloaded, and it moves forward." So, again, the good thing is there's only a couple places that we need to look for this particular claim structure.

So, if you'll go to Column 22, for example, very top of Column 22 is a discussion that, that follows from these continuations where Mr. Flick makes clear that his tracker originally was geared toward a hard wire configuration where if you wanted to hook it up to something, you hook it up to power, you hook it up to ground, but here he has the idea that you can do other functions if you can just make those connections by the data bus.

So, at the very top of 22 down to Line 7, he talks about his earlier work in the security area. The 551 Patent and the 460 Patent incorporates those by reference. And they talk about the idea of different vehicles having different codes and how you might interface with those.

JUDGE JEFFERY: One -- I wanted to ask you about the 551 Patent. As I understand, it does talk about what a different vehicle means --

MR. REGAN: Correct.

JUDGE JEFFERY: -- in the parlance, at least of that reference, which is incorporated by reference in this patent. And one of the things that struck me, and I think the examiner is pointing to this, or at least referring to it, is the notion that a "different vehicle" can be the same make and model, but have a different trim level.

MR. REGAN: If it has -- I think, the way to think about it and the way that this portfolio has been used and looked at is if it has different codes, it's a different vehicle, so --

JUDGE JEFFERY: Yes, well, in -- let me just point you to the fact that the one patent here in Column 6 of the 551 -- I don't know if you have it available to you there.

MR. REGAN: I don't have that in front of me, but --

JUDGE JEFFERY: Well, I'll just read it and see. And, I think, this is what the examiner is referring to. Starting at Line 38 in Column 6 of the 551, it says, "As would be readily understood by those skilled in the art, the term "different vehicles" may include vehicles from different manufacturers, different models, or even different trim levels of the same make and model."

MR. REGAN: Correct.

JUDGE JEFFERY: Okay.

MR. REGAN: That's accurate.

JUDGE JEFFERY: So, that -- that last -- that last alternative is what I was curious about. "Different trim levels of the same make and model," so does that mean I could have, let's say, a Honda Accord, we'll just pick a year, 2018 Honda Accord, and I can have that same 2018 Honda Accord with a different trim level and that is a different vehicle as the term is used in the claim.

MR. REGAN: Right, it's a different vehicle in the sense that it has different codes to operate it, so it might require different codes to operate, for example, the door locks.

JUDGE JEFFERY: It has to have different codes. In other words, I can't --

MR. REGAN: Yes, it has to have different codes.

JUDGE JEFFERY: -- have a red Honda Accord with leather seating, you know, leather upholstery, let's say, that would be trim level number one, and then I have a 2018 Honda Accord with velour upholstery and a blue color -- you see what I'm saying. I'm just going with aesthetic differences only.

MR. REGAN: Right. No, so the trim level would be more of the, would be more the equipment packages that go with it than the color.

JUDGE JEFFERY: So, a different trim level would necessarily have different codes.

MR. REGAN: They could. This -- so this -- your language you're looking at goes back to 1995.

JUDGE JEFFERY: Okay.

MR. REGAN: So, I don't know what it is today. There may be some consolidation.

JUDGE JEFFERY: Well, that -- therein lies the -- because we have the term "different vehicles" in the claim, so --

MR. REGAN: Right, but there are absolutely different vehicles today --

JUDGE JEFFERY: -- emphasizes the point.

MR. REGAN: Yes.

JUDGE JEFFERY: And we know that this passage is incorporated by reference in the 278 Patent.

MR. REGAN: Yes.

JUDGE JEFFERY: Okay. So, it's relevant in that sense.

MR. REGAN: Yes.

JUDGE JEFFERY: And to help us nail down what a different vehicle is, it sounds like it could be the same vehicle, the same make and model.

MR. REGAN: So, there's a couple ways to think about same vehicle. It could be the same atoms, which it's not, but really for this, it's the same vehicle if it has the same codes, but really what we're concerned about is not the same vehicle. We're worried about there's a bunch of different ones.

JUDGE JEFFERY: So, a -- just to -- I don't want to beat a dead horse here, but a Honda -- a 2018 Honda Accord could have a different trim level from another 2018 Honda Accord and have a different code.

MR. REGAN: I believe that's correct.

JUDGE JEFFERY: Okay. So, it would really be the codes that would distinguish --

MR. REGAN: Yes.

JUDGE JEFFERY: -- one from the other and as claimed in effect reading and in light of the specification, they had to have different codes.

MR. REGAN: Yes, that's absolutely true.

JUDGE JEFFERY: Okay. So, the examiner's statement on page four of the answer, which you responded to in your reply brief as I recall, the notion that you could have identical electronics in the -- I'm at the bottom of page four of the answer, where the examiner says, "Different vehicles can be, e.g., same make and model with different trims." And he puts in parentheses, "(Not different electronics.)" So, in your view, that's an incorrect construction.

MR. REGAN: I think it's part of the reason why this hasn't worked out correctly for the examiner. I think, because there's a claim construction problem, as well as -- it's either that or the interpretation of the prior art.

So, if we just return back to 278 Patent real quick? Column 24, Lines 8 or 9 where it starts, "The other thing that seems to be missing is this idea of enabling data, that may be vehicle device code or codes and instruction to select the code or codes from among those already stored or the data or sequence to allow the controller to generate the vehicle device code or codes." So, it seems --

JUDGE JEFFERY: One of the things that strikes me about that passage is the permissive and exemplary language in the passage itself, so the enabling data may be -- I'm emphasizing the word "may" here be those things as you indicated, and then it ends with the term "for example."

MR. REGAN: Yes.

JUDGE JEFFERY: Okay. So, it begs the question then it's not -- if it's not limited to that, which apparently it is that those are mere examples, what else could it be?

MR. REGAN: So, part of this is a claim instruction where the examiner used one full paragraph six, "And went to the spec and found the structure and used that structure to construe the claim," but then when she went to apply it to the prior art, I think that there's a disconnect there, because she treated any kind of communication back-and-forth as meeting this enabling data, and that's where I think the problem is if that makes sense.

JUDGE JEFFERY: Thank you for that, but even under a 1112-6 construction, you still have the equivalents. You have the --

MR. REGAN: Yes.

JUDGE JEFFERY: -- corresponding structure in the specification that it's limited to or its equivalents.

MR. REGAN: Yes.

JUDGE JEFFERY: So, we have exemplary language here, we have non-limiting language, and we have the equivalents aspect. What would be an equivalent do you think to that?

MR. REGAN: Well, since I drafted that language, I'm hoping there weren't too many other equivalents out there, but I think when you read this, no matter what's equivalent, they can't be just nothing, so it can't be just requesting data and having someone send it.

JUDGE JEFFERY: It's more than data, so, it has to be related to the code. Certainly, the examples you give here involve the codes themselves, generating the codes or selecting the codes that are stored, so clearly, they're code-related, if you will.

MR. REGAN: Yes. And if you want to look back to the claim, the idea is the multi-vehicle compatible controller is using these codes from among plurality for different vehicles.

JUDGE JEFFERY: So, if I just pass data that is related to the code in the sense that I've looked up in a database what this code means and I send back to a vehicle a health report that is tied -- related to the code in that sense in like, hey, you're -- let's say the code, a fault code reported to the server was, let's say, you know, you're low on oil, okay, whatever that code happens to be, it would be -- the data that's sent in response to that, receiving that code would, in fact, be related to the code at least in a sense of determining a particular remedy involved or the problem involved associated with the fault code. But you're saying it's not related in the sense of the codes themselves, generating the codes, selecting the codes, of the vehicle?

MR. REGAN: Right. So, this patent has been licensed, it's been litigated, and it's been re-examined once already, so we've covered a lot of that ground. I think -- I think, it comes down in favor of the patent owner here, so your point is well taken, but the rest of the world has looked at it much like what we're proposing here.

JUDGE JEFFERY: But didn't the examiner determine that there was a substantial new question of patentability in this proceeding --

MR. REGAN: Well --

JUDGE JEFFERY: -- based on Chou.

MR. REGAN: She did. I would point out that Chou was actually old new art and that it was considered in the parent patent to this and I think 26 other of Mr. Flick's patents. It was known by the requestor, their technical expert, he didn't bother to use at trial. Requestor has known about it for years. They didn't use it in the first re-exam, so it's been around.

And, I think, one of our better arguments is that it's really no different than Suman, which was cited in the first reexam and overcome.

JUDGE JEFFERY: Your argument is cumulative to Suman.

MR. REGAN: Yes, absolutely.

JUDGE JEFFERY: Well, along these lines, as I recall from the briefing, there was an argument that essentially we should -- that this whole proceeding was improperly granted, in other words, based on the multiple re-examination requests that have been at play in this proceeding or related to the proceeding, and that we should essentially apply a IPR, *Inter Partes* Review, standard in evaluating the propriety, if you will, of the repeated multiple serial requests for re-examination.

MR. REGAN: Yes, we would love that if you would do that, but we're really here to argue the merits of the patentability.

JUDGE JEFFERY: Okay, fair enough. I raise that now because you happen to be here and it was in the briefing. I mean, it was --

MR. REGAN: Yes.

JUDGE JEFFERY: -- definitely a --

MR. REGAN: It's an argument that, I think, we have to make, and we have to make on behalf of the patent owner.

JUDGE JEFFERY: Well, along those lines, I wanted to ask you, was there a challenge to the examiner's SNQ determination? The actual substantial new question of patentability challenged, was that --

MR. REGAN: No.

JUDGE JEFFERY: -- challenged?

MR. REGAN: No.

JUDGE JEFFERY: Okay. So, you're basically asking us in the first instance to determine that the re-exam was improperly instituted, if you

will, because of the serial requests, but that argument wasn't in front of the examiner.

MR. REGAN: So, the -- so, the law in that area seems to be evolving mostly with other IPR proceedings, the idea of sequential serial harassment challenges over and over again, so I don't think the law was very well developed for just the *ex parte* reexam in that, so we're making an argument based upon what's done in IPRs.

JUDGE JEFFERY: Okay. Thank you for that. We do have a distinction here in that we have an examiner that made the determination in the first instance, as opposed to an IPR where the Board makes that determination to institute, if you will.

MR. REGAN: Well, my recollection is that once the -- we could have filed a response to the original request, but most folks don't do that because every time we've done that, the requestor files another 1,000 pages, so we let the examiner go forward with our determination.

JUDGE JEFFERY: Well, the reason I mention this is as I understand it, substantial new question of patentability determinations are in fact appealable under the procedures.

MR. REGAN: Yes, you have to petition to make that work, so it goes in a different, slightly different direction.

JUDGE JEFFERY: But to this Board though, ultimately, it's an appealable matter, and that's the reason I'm bringing it now because one of the requirements of that is it has to be seasonably raised before the examiner first before it comes to us, you know, in that sense.

MR. REGAN: Yes. Again, this goes over a couple of years and the law seems to be evolving actually in the favor of patent owners.

JUDGE JEFFERY: Okay. All right.

MR. REGAN: So, we should take a quick look at Claim 1. It's on Column 26. It begins at the bottom of 25 and goes to 26. So, I don't think we're going to argue very much about a vehicle position determining device and wireless communications device. I think there's a controller that probably sends vehicle position information. Although, we would argue that it's probably not multi-vehicle compatible, so what we're talking about are the last two elements as you already focused on.

So, "It's the multi-vehicle compatible controller -- to the vehicle data bus for communication, thereover, with at least one vehicle device using at least one corresponding vehicle device code from among the plurality, thereof, for different vehicles." Again, this is the language that's been used excessively in the whole family of patents by Mr. Flick's licensing, and also assertion.

And then, "This downloading interface is permitting downloading of the enabling data related to at least one corresponding vehicle device code for use by set faulty vehicle compatible control." Again, this lets the -- this lets the businessman have one unit, and he can set it up when he needs to. And it's a big deal, provides all kinds of economy, and lots of folks have adopted them.

So, I think you mentioned a little bit about the -- so there was a first re-exam, and the art in that was among other things, Suman and Spaur and Becker, so Suman and Spaur are in your secondary references and really not that relevant, but the idea is after we filed our response, the second request came in. And it was taking Suman and Spaur and Becker and adding another reference to that, so that was what the requester put in.

And as a fallback, I would suggest they put this Chou reference that's been kicking around for ten or so years. So, that was put in there so that, I

think, they would avoid the substantial new question of patentability not going in their favor.

So, in the first action, the examiner does drop all those, we call them "recycled art," and sticks with Chou, so we're down to a fairly, I think, a basic question of patentability now just over a single reference.

So, we filed a response and we tried to get some other evidence and the examiner doesn't cooperate with us. That's okay. I think we have plenty in the record already to make this determination.

JUDGE JEFFERY: And that's a petitionable matter, right?

MR. REGAN: Correct.

JUDGE JEFFERY: Yes.

MR. REGAN: Right. And I don't think we wanted to slow it down and I don't think we wanted to hassle the examiner because she was being fair with us, so.

So, next, I would maybe move on to the claim construction. Again, we've already talked a brief, but the idea that she used paragraph -- sorry, Section 112, Paragraph 6, which "Requires you to have the corresponding structure material or acts, thereof, described and equivalence thereof." Again, I think you hit the nail on the head that it's not equivalent to have no compatibility, to have just the command center, because that's the prior art, that's Suman. That's -- that's not what you would get if you read the specification. So, let's find a range on that --

JUDGE JEFFERY: Well, I wanted to ask you, a key point in the examiner's rejection as I understand it is the notion of the compatibility with different vehicles and Chou, at least in the examiner's mind. And there's some discussion about Column 4 of Chou, and the notion of the fault codes that are reported to the, to the vehicle computer, if you will, are reported

from the ECUs 103, and there's a statement in Column 4 starting around Line 28 or so that the fault code specifications and protocols of the vehicle may be original equipment manufacturer only and then model dependent. And then there's this listing in a SAE publication that lists all these different codes, the different types of vehicles, and what have you there.

And as best I understand it, the examiner seems to be saying, well, because these codes in Chou are model dependent, therefore, the controller that uses those codes must therefore be multi-vehicle compatible.

MR. REGAN: Well, no, because the controller is put in one vehicle with one set of whatever it has and that's how it works.

JUDGE JEFFERY: So, the vehicle in Chou, when I look at say Figure -- let's take a figure here, Figure 3 of Chou that shows that, you know, the in vehicle system with the user interface and fault monitor and the like, that that is designed for one vehicle and one vehicle only.

MR. REGAN: Well, it doesn't tell me one way or the other, but it certainly doesn't tell me that it's multi-vehicle, so -- so we did run this by our technical consultant that worked with us in the litigation and, I mean, that's his understanding, that's the inventor's understanding, that's my understanding.

JUDGE JEFFERY: So, the fact that the codes are model dependent, just means that --

MR. REGAN: Different boxes use different codes, which is the whole problem our invention was addressing.

JUDGE JEFFERY: Okay.

MR. REGAN: So, in the examiner's claim construction section, if you look on page -- it's really probably 22 of the answer, so, "In construing a multi-vehicle compatible controller, controller including a CPU, operating

on the stored program, other control, other logic circuit, memory, clock, and using at least one corresponding vehicle device code from among a plurality, thereof, for different vehicles," so that is from the spec.

I think that's true, but it's not complete, so I would -- and we put this in our reply if you notice that it's a simple trap to fall into where you just read the one claim and you check it off and you say you have it, but really there's cooperation here between the downloading interface and the controller, so that's what we tried to highlight in our reply and in our, in our original brief.

So, the downloading interface on page 27, she's describing that or construing that, "Corresponding structure for functional phase four," that's the downloading interface, "such a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code, e.g., vehicle device code or codes, and instruction to select a code or codes from among those already stored or the data sequence to allow the controller to generate the vehicle device code or codes for use, for us by said multi-vehicle compatible controller."

So, there, I think, she's got that, and I think we're on the right path in this, but if you look at her comments in response to our brief that it's -- if we look at page four, for example, and this was a little tricky for us, right around the middle of the page, so she's discussing the claim patentability multi-vehicle compatible controller, "That we assert that Chou fails to disclose the recited controller because there is a lack of vehicle code compatibility among vehicles of different manufacturers, in some cases, even between different products of the same manufacture."

And then here's the part that's tricky, "However, such assertion/conclusions are not commensurate with the terms of the

claim/recited feature itself and/or such terms given the broadest reasonable interpretation consistent with the specification, but not re-limitations in the specification of the claims, the teachings of Chou, and/or the final action."

So -- so in our brief, we tried to address the different permutations either that perhaps she's reading the claim way too broad or she's reading the teachings of Chou we think that's incorrect. So, there are a couple of points like that.

Page five, and right around the middle of this, I guess, this is maybe the fourth line from the middle of the paragraph, "The phrase requires a corresponding structure merely the capability of using at least one code from among a plurality, thereof, for different vehicles." I think that's a -- I don't think that's quite a correct construction. It's certainly not construing the elements together as a -- in the claim as a whole.

And there are some other recitations like that where it's -- you're left between a permutation either she's treating the claim broader than you hoped or she's reading the reference in a way different than it seems like it should be read. That's on page six as well.

JUDGE JEFFERY: Well, the District Court construed various terms of the claim as well, right, in the hearing in the trial.

MR. REGAN: Yes, but they construed just the term, so they don't construe the whole phrase, so, for example, when the judge is construing multi-vehicle compatible, or whatever multi-vehicle, he's literally just looking at those couple of words, so that sits within a claim, and the rest of the claim defines that whole element if you will.

So, we -- we made some arguments, and the examiner comes back -- I'm looking at page seven. And this where I'm pretty sure it's now an improper claim construction. Second paragraph around the middle, "See

again the prior discussion of the multi-vehicle compatible controller from downloading interface. The claim language does not require specifics on board structure with the ability to work with different vehicles having different codes."

What -- we just went through this 112 paragraph six analysis of the claim, so that seems inconsistent to me, and, I think, that's the examiner's reading the claim term now no longer remembering the 112 paragraph 6, so I think she's using a different construction, I think.

So, her prior art rejections, it's pretty straightforward. We should just look at the patent, the true patent.

So, if you look at Figure 2, there is a black diagram, and I think the examiner does a good job piecing together the different blocks that fit in generally within the claim structure, so the multi-vehicle compatible controller from her page 33, "His vehicle bus interface process or memory."

And her download -- downloading interface, he looks at 320 and 360. And, then, again -- now, in Chou, we have three figures that are basically the same thing now with the detail, but seems to be pertinent to us.

JUDGE JEFFERY: -- said in Chou -- I mean, looking at Figure 3, for example, we have a network interface 107 and a cell phone, and then we have a remote communication with a remote service center with a server. Could it be said that you have a downloading interface just in general there in that -- at least in the sense it's capable of downloading data?

MR. REGAN: Yes.

JUDGE JEFFERY: Okay.

MR. REGAN: Yes.

JUDGE JEFFERY: But not the enabling data that --

MR. REGAN: Correct, not the key feature of the invention, yes.

So, the discussion here that she points to with track in Figure 5, and that's Column 9, Line 35 down to 50. This is the health check that you mentioned earlier. So, this seems to me to be just a straightforward request for data and the device sends the data, which is prior art, which is Suman, which is a hundred other references.

JUDGE JEFFERY: But it's certainly relevant though to the codes. As I understand it, that, you know, the vehicle has the fault codes that are reported on its ECUs, and then those fault codes get essentially relayed to --

MR. REGAN: Right.

JUDGE JEFFERY: -- the server for analysis. It presumably does a database lookup or some -- some way it figures out what codes it got and will interpret the codes, send back a report to --

MR. REGAN: Absolutely, right.

JUDGE JEFFERY: -- say you got X problem, low in oil, or whatever, but that's related to the codes in that sense that data, so it's not just data. It is code-related data at least in a sense of the interpretation of the codes.

MR. REGAN: Correct, but it's not related to the codes that'll be used by the multi-vehicle compatible controller for different vehicles, so --

JUDGE JEFFERY: So, at best you could say the vehicle in Chou is single-vehicle compatible.

MR. REGAN: Yes.

JUDGE JEFFERY: There's only one vehicle, that vehicle for which the controller was designed despite the fact the codes vary depending on the model.

MR. REGAN: Right, so I would argue over in our brief the idea if it's got any multi-vehicle compatibility that's done offsite at the remote

server with the remote diagnostics. And if you look at Column 5, Line 53, that paragraph, it talks about it, "Diagnostic server, the service center is a diagnosis engine. Main function, provide a healthy checkup or diagnosis using the data obtained from the vehicle, the vehicle's past history, and diagnostic information about the particular model of the vehicle."

And we cite some other sections as well in here that seem to indicate if there's any one of ordinary skill looking at this, the only multi-vehicle compatibility is coming at the remote station. That's the remote service center.

JUDGE JEFFERY: And you also contend that that teaches away from a claimed invention as well, the notion of offsite -- off vehicle analysis.

MR. REGAN: Right. I mean, that's just a different technology, a different structure addressing different problems, correct.

JUDGE JEFFERY: The only reason I bring that up is the teaching away argument is irrelevant to the examiner's anticipation rejection, is it not?

MR. REGAN: Yes.

JUDGE JEFFERY: Okay. As well as the secondary consideration as evidence?

MR. REGAN: Correct.

JUDGE JEFFERY: So, we have an alternative rejection here. We have a 102 or 103.

MR. REGAN: Yes.

JUDGE JEFFERY: So, that evidence is only germane to the obviousness alternative?

MR. REGAN: Absolutely. So, if we're out of time, I greatly appreciate your, your thoughtful consideration. Thank you.

JUDGE JEFFERY: Thank you.

Any further questions from the panel?

JUDGE HOFF: No, sir.

JUDGE CHEN: None for me.

JUDGE JEFFERY: Okay.

MR. REGAN: Thank you.

JUDGE JEFFERY: Counsel, I think that'll do it, and the case is submitted. Thank you.

(Whereupon, the above-entitled matter went off the record at 1:41 p.m.)

Appeal 2018-008119
Reexamination Control 90/013,851

PATENT OWNER:

CHRISTOPHER F. REGAN, ESQUIRE
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
P.O. BOX 3791
ORLANDO, FL 32802-3791

THIRD PARTY REQUESTER:

KPPB LLP
2190 S. TOWNE CENTRE PLACE
SUITE 300
ANAHEIM, CA 92806

Litigation Search Report CRU 3999

Reexam Serial No. 90/013,851

TO: KARIN REICHLE	From: Shanette Brown
Location: CRU	Location: CRU 3999
Art Unit: 3993	MDE 4B15
Date: 11/28/2018	Phone: (571) 272-6632
	Shanett.Brown@uspto.gov

Search Notes

RE: 90/013,851–Litigation found for US Patent Number: **8,032,278**

Patent	Class	Subclass	Description	Court	Docket Number	Filed	Date Retrieved
8,032,278	701	36	Omega Patents, Llc V. Enfora, Inc.	US-DIS-GAND	1:13cv646 CLOSED	02/28/2013	04/20/2018
8,032,278	701	36	Omega Patents, Llc V. Enfora, Inc.	US-DIS-GAND	1:17cv2769 CLOSED	07/21/2017	10/31/2018
8,032,278	701	36	Omega Patents, LLC v. CalAmp Corp.	US-APP-CAFED	18-1309	12/19/2017	07/19/2018
8,032,278	701	36	Omega Patents, Llc V. Calamp Corp.	US-DIS-FLMD	6:13cv1950 CLOSED	12/20/2013	09/28/2018

Sources:

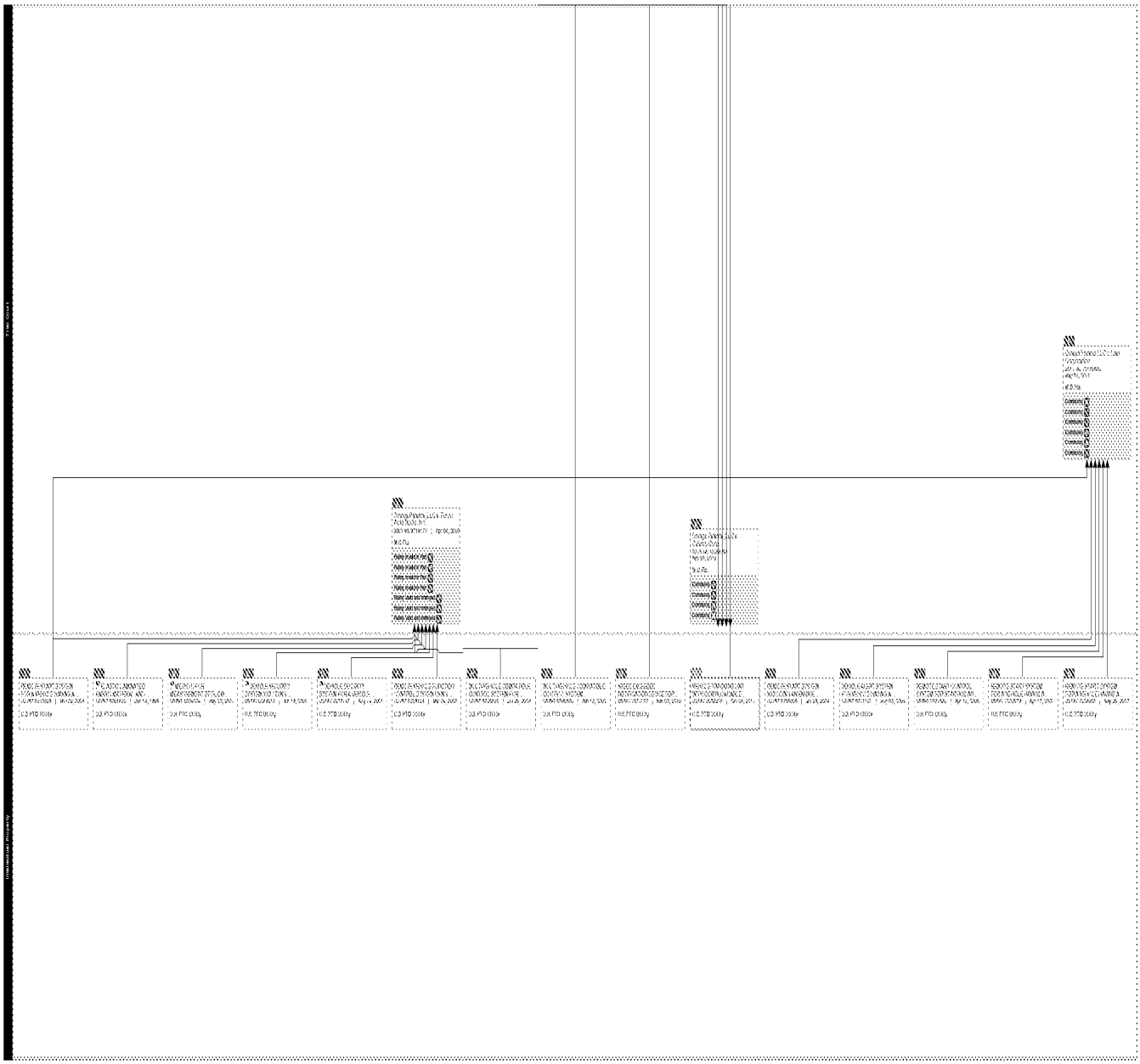
1) I performed a KeyCite Search in Westlaw, which retrieves all history on the patent including any litigation.

2) I performed a search on the patent in Lexis CourtLink for any open dockets or closed cases.

3) I performed a search in Lexis in the Federal Courts and Administrative Materials databases for any cases found.

4) I performed a search in Lexis in the IP Journal and Periodicals database for any articles on the patent.

5) I performed a search in Lexis in the news databases for any articles about the patent or any articles about litigation on this patent.



History (49)

Direct History (32)

1. ELASTIC LAMINATED FABRIC MATERIAL AND METHOD OF MAKING SAME Cited Pat.
US PAT 6001460 , U.S. PTO Utility , Dec. 14, 1999

Ruled Invalid in Part by

2. Omega Patents, LLC v. Fortin Auto Radio, Inc.
2007 WL 9719177 , M.D.Fla. , Apr. 04, 2007

3. METHOD FOR MEASUREMENT OF FLOW VELOCITY OR DIFFUSIVITY, MICROSENSOR AND APPLICATION OF SUCH MICROSENSOR Cited Pat.
US PAT 6234004 , U.S. PTO Utility , May 22, 2001

Ruled Invalid in Part by

4. Omega Patents, LLC v. Fortin Auto Radio, Inc.
2007 WL 9719177 , M.D.Fla. , Apr. 04, 2007

5. VEHICLE SECURITY SYSTEM INCLUDING ADAPTOR FOR DATA COMMUNICATIONS BUS AND RELATED METHODS Cited Pat.
US PAT 6249216 , U.S. PTO Utility , June 19, 2001

Ruled Invalid in Part by

6. Omega Patents, LLC v. Fortin Auto Radio, Inc.
2007 WL 9719177 , M.D.Fla. , Apr. 04, 2007

7. VEHICLE SECURITY SYSTEM FOR A VEHICLE HAVING A DATA COMMUNICATIONS BUS AND RELATED METHODS Cited Pat.
US PAT 6275147 , U.S. PTO Utility , Aug. 14, 2001

WESTLAW © 2015 Thomson Reuters. No claim to original U.S. Government Works.

Ruled Invalid in Part by

8. Omega Patents, LLC v. Fortin Auto Radio, Inc.
2007 WL 9719177 , M.D.Fla. , Apr. 04, 2007

---

9. MULTI-VEHICLE COMPATIBLE CONTROL SYSTEM GENERATING COMMAND SIGNALS ON A DATA BUS AND ASSOCIATED METHODS Out Of Pkg.
US PAT 6346876 , U.S. PTO Utility , Feb. 12, 2002

Construed by

10. Omega Patents, LLC v. Calamp Corp.
2015 WL 10568791 , M.D.Fla. , Feb. 20, 2015

---

11. REMOTE VEHICLE FUNCTION CONTROL SYSTEM USING DATA BUS ADAPTOR CARTRIDGE AND ASSOCIATED METHODS Out Of Pkg.
US PAT 6529124 , U.S. PTO Utility , Mar. 04, 2003

Ruled Valid and Infringed by

12. Omega Patents, LLC v. Fortin Auto Radio, Inc.
2007 WL 9719177 , M.D.Fla. , Apr. 04, 2007

---

13. MULTI-VEHICLE COMPATIBLE CONTROL SYSTEM FOR READING FROM A DATA BUS AND ASSOCIATED METHODS Out Of Pkg.
US PAT 6756885 , U.S. PTO Utility , June 29, 2004

Ruled Valid and Infringed by

14. Omega Patents, LLC v. Fortin Auto Radio, Inc.
2007 WL 9719177 , M.D.Fla. , Apr. 04, 2007

WESTLAW © 2015 Thomson Reuters. No claim to original U.S. Government Works.

AND Construed by

15. Omega Patents, LLC v. Calamp Corp.
2015 WL 10568791 , M.D.Fla. , Feb. 20, 2015

---

16. REMOTE START SYSTEM INCLUDING AN ENGINE SPEED DATA BUS READER AND RELATED METHODS Out Of Print
US PAT 6756886 , U.S. PTO Utility , June 29, 2004

Construed by

17. Omega Patents LLC v. Lear Corporation
2011 WL 13176638 , M.D.Fla. , May 31, 2011

---

18. VEHICLE ALERT SYSTEM FOR VEHICLE HAVING A DATA BUS AND ASSOCIATED METHODS Out Of Print
US PAT 6771167 , U.S. PTO Utility , Aug. 03, 2004

Construed by

19. Omega Patents LLC v. Lear Corporation
2011 WL 13176638 , M.D.Fla. , May 31, 2011

---

20. REMOTE START SYSTEM FOR A VEHICLE HAVING A DATA COMMUNICATIONS BUS AND RELATED METHODS Out Of Print
US PAT 6812829 , U.S. PTO Utility , Nov. 02, 2004

Ruled Valid and Infringed by

21. Omega Patents, LLC v. Fortin Auto Radio, Inc.
2007 WL 9719177 , M.D.Fla. , Apr. 04, 2007

AND Construed by

WESTLAW © 2015 Thomson Reuters. No claim to original U.S. Government Works.

22. Omega Patents LLC v. Lear Corporation
2011 WL 13176638 , M.D.Fla. , May 31, 2011

---

23. REMOTE START CONTROL SYSTEM FOR STARTING AN ENGINE OF A VEHICLE BASED ON SELECTED VEHICLE DATA CARRIED BY A DATA COMMUNICATIONS BUS AND ASSOCIATED METHODS Out Of Print
US PAT 7031826 , U.S. PTO Utility , Apr. 18, 2006

Construed by

24. Omega Patents LLC v. Lear Corporation
2011 WL 13176638 , M.D.Fla. , May 31, 2011

---

25. REMOTE START SYSTEM FOR A VEHICLE HAVING A DATA COMMUNICATIONS BUS AND RELATED METHODS Out Of Print
US PAT 7205679 , U.S. PTO Utility , Apr. 17, 2007

Construed by

26. Omega Patents LLC v. Lear Corporation
2011 WL 13176638 , M.D.Fla. , May 31, 2011

---

27. REMOTE START SYSTEM FOR A VEHICLE HAVING A DATA COMMUNICATIONS BUS AND RELATED METHODS Out Of Print
US PAT 7224083 , U.S. PTO Utility , May 29, 2007

Construed by

28. Omega Patents LLC v. Lear Corporation
2011 WL 13176638 , M.D.Fla. , May 31, 2011

WESTLAW © 2015 Thomson Reuters. No claim to original U.S. Government Works.

29. SPEED EXCEEDED NOTIFICATION DEVICE FOR VEHICLE HAVING A DATA BUS AND ASSOCIATED METHODS Out Of Plac
US PAT 7671727 , U.S. PTO Utility , Mar. 02, 2010

Construed by

30. Omega Patents, LLC v. Calamp Corp.
2015 WL 10568791 , M.D.Fla. , Feb. 20, 2015

31. VEHICLE TRACKING UNIT WITH DOWNLOADABLE CODES AND ASSOCIATED METHODS Out Of Plac
US PAT 8032278 , U.S. PTO Utility , Oct. 04, 2011

Construed by

32. Omega Patents, LLC v. Calamp Corp.
2015 WL 10568791 , M.D.Fla. , Feb. 20, 2015

Related References (17)

33. Omega Patents, LLC v. Fortin Auto Radio, Inc.
2006 WL 2038534 , M.D.Fla. , July 19, 2006

34. Omega Patents, LLC v. Fortin Auto Radio, Inc.
2006 WL 3544823 , M.D.Fla. , Dec. 08, 2006

35. Omega Patents, LLC v. Fortin Auto Radio, Inc.
2007 WL 9719178 , M.D.Fla. , Jan. 24, 2007

36. Omega Patents, LLC v. Fortin Auto Radio, Inc.
2007 WL 9719255 , M.D.Fla. , Feb. 01, 2007

37. Omega Patents, LLC v. Fortin Auto Radio, Inc.
2007 WL 4373110 , M.D.Fla. , Feb. 05, 2007

WESTLAW © 2015 Thomson Reuters. No claim to original U.S. Government Works.

38. Omega Patents, LLC v. Fortin Auto Radio, Inc.
227 Fed.Appx. 901 , Fed.Cir. , June 05, 2007

39. Omega Patents, LLC v. Lear Corp.
2007 WL 4247674 , M.D.Fla. , Nov. 30, 2007

40. Omega Patents, LLC v. Lear Corp.
2008 WL 719295 , M.D.Fla. , Mar. 14, 2008

41. Omega Patents, LLC v. Lear Corp.
2008 WL 821886 , M.D.Fla. , Mar. 20, 2008

42. Omega Patents, LLC v. Lear Corp.
2009 WL 1513392 , M.D.Fla. , May 27, 2009

43. Omega Patents, LLC v. Calamp Corp.
2015 WL 12830496 , M.D.Fla. , Dec. 23, 2015

44. Omega Patents, LLC v. Calamp Corp.
2015 WL 12830497 , M.D.Fla. , Dec. 23, 2015

45. Omega Patents, LLC v. Calamp Corp.
2016 WL 7229888 , M.D.Fla. , Jan. 05, 2016

46. Omega Patents, LLC v. Calamp Corp.
2016 WL 7240311 , M.D.Fla. , Jan. 13, 2016

47. Omega Patents, LLC v. Calamp Corp.
2016 WL 7177550 , M.D.Fla. , Jan. 19, 2016

48. Omega Patents, LLC v. CalAmp Corp.
2017 WL 4990654 , M.D.Fla. , Sep. 22, 2017

WESTLAW © 2018 Thomson Reuters. No claim to original U.S. Government Works.

Appeal Filed by

49. OMEGA PATENTS, LLC v. CALAMP CORP.
, Fed.Cir. , Dec. 19, 2017

WESTLAW © 2018 Thomson Reuters. No claim to original U.S. Government Works.

US District Court Civil Docket

U.S. District - Georgia Northern
(Atlanta)

1:13cv646

Omega Patents, Llc v. Enfora, Inc.

This case was retrieved from the court on Wednesday, November 28, 2018

Date Filed:	02/28/2013		
Assigned To:	Judge Thomas W. Thrash, Jr	Class Code:	CLOSED
Referred To:		Closed:	06/20/2013
Nature of suit:	Patent (830)	Statute:	28:1338
Cause:	Patent Infringement	Jury Demand:	Plaintiff
Lead Docket:	None	Demand Amount:	$0
Other Docket:	None	NOS Description:	Patent
Jurisdiction:	Federal Question		

Litigants	Attorneys
Omega Patents, Llc a Georgia limited liability company Plaintiff	Cynthia Jeannette Lee LEAD ATTORNEY; ATTORNEY TO BE NOTICED Thomas Horstemeyer, LLP Suite 1600e 3200 Windy Hill Rd. Atlanta , GA 30339 USA 770-933-9500 Email: Cynthia.Lee@thomashorstemeyer.Com Dan Robert Gresham LEAD ATTORNEY; ATTORNEY TO BE NOTICED Thomas Horstemeyer, LLP Suite 1500 400 Interstate North Parkway, Se Atlanta , GA 30339 USA 770-933-9500 Email: Dan.Gresham@thomashorstemeyer.Com
Enfora, Inc. a Delaware Corporation Defendant	
Novatel Wireless, Inc. Defendant	

Date	#	Proceeding Text	Source
02/28/2013	1		

		COMPLAINT with Jury Demand, filed by Omega Patents, LLC. Consent form to proceed before U.S. Magistrate and pretrial instructions provided. (Filing fee $ 350.00 receipt number 113E-4436675.) (Attachments: # 1 Exhibit A - '876, # 2 Exhibit B - '727, # 3 Exhibit C -'278, # 4 Exhibit D - '886, # 5 Civil Cover Sheet)(eop) Please visit our website at http://www.gand.uscourts.gov to obtain Pretrial Instructions. (Entered: 02/28/2013)
02/28/2013	2	Electronic Summons Issued as to Enfora, Inc.. (eop) (Entered: 02/28/2013)
02/28/2013	3	Certificate of Interested Persons by Omega Patents, LLC. (eop) (Entered: 02/28/2013)
02/28/2013	4	AO Form 120 forwarded to Commissioner. (eop) (Entered: 02/28/2013)
03/01/2013		Clerks Notation re 3 Certificate of Interested Persons, OK per TWT. (ss) (Entered: 03/01/2013)
03/07/2013	5	First AMENDED COMPLAINT against Enfora, Inc., Novatel Wireless, Inc.with Jury Demand, filed by Omega Patents, LLC. (Attachments: # 1 Exhibit A - '876 Patent, # 2 Exhibit B - '727 Patent, # 3 Exhibit C - '278 Patent, # 4 Exhibit D - '886 Patent, # 5 Summons Novatel Wireless, Inc.) (Gresham, Dan) Please visit our website at http://www.gand.uscourts.gov to obtain Pretrial Instructions. (Entered: 03/07/2013)
03/07/2013	6	Supplemental Certificate of Interested Persons and Corporate Disclosure Statement by Omega Patents, LLC identifying Other Affiliate Kenneth Flick for Omega Patents, LLC. (Gresham, Dan) (Entered: 03/07/2013)
06/19/2013	7	NOTICE of Voluntary Dismissal Without Prejudice filed by Omega Patents, LLC (Gresham, Dan) (Entered: 06/19/2013)
06/20/2013		Clerk's Entry of Dismissal APPROVING 7 Notice of Voluntary Dismissal pursuant to Fed.R.Civ.P.41(a)(1)(i) (dr) (Entered: 06/20/2013)
06/20/2013		Civil Case Terminated. (dr) (Entered: 06/20/2013)
06/20/2013	8	AO Form 120 forwarded to Commissioner. (dr) (Entered: 06/20/2013)

Copyright © 2018 LexisNexis CourtLink, Inc. All rights reserved.
*** THIS DATA IS FOR INFORMATIONAL PURPOSES ONLY ***

US District Court Civil Docket

U.S. District - Georgia Northern
(Atlanta)

1:17cv2769

Omega Patents, Llc v. Enfora, Inc.

This case was retrieved from the court on Wednesday, November 28, 2018

Date Filed:	07/21/2017		
Assigned To:	Judge Thomas W. Thrash, Jr	Class Code:	CLOSED
Referred To:		Closed:	01/31/2018
Nature of suit:	Patent (830)	Statute:	28:1338
Cause:	Patent Infringement	Jury Demand:	Both
Lead Docket:	None	Demand Amount:	$0
Other Docket:	None	NOS Description:	Patent
Jurisdiction:	Federal Question		

Litigants	Attorneys
Omega Patents, Llc a Georgia limited liability company Plaintiff	Brian R. Gilchrist LEAD ATTORNEY; PRO HAC VICE; ATTORNEY TO BE NOTICED Allen Dyer Doppelt Milbrath & Gilchrist P.O. Box 3791 255 South Orange Avenue Suite 1401 Orlando , FL 32802-3791 USA 407-841-2330 Email: Bgilchrist@addmg.Com Cynthia Jeannette Lee LEAD ATTORNEY; ATTORNEY TO BE NOTICED Thomas Horstemeyer, LLP Atl Suite 1600e 3200 Windy Hill Road, Se Atlanta , GA 30339 USA 770-933-9500 Fax: 770-951-0933 Email: Cynthia.Lee@thomashorstemeyer.Com Dan Robert Gresham LEAD ATTORNEY; ATTORNEY TO BE NOTICED Thomas Horstemeyer, LLP Atl Suite 1600e 3200 Windy Hill Road, Se Atlanta , GA 30339 USA 770-933-9500

Fax: 770-951-0933
Email: Dan.Gresham@thomashorstemeyer.Com

Ryan T. Santurri
LEAD ATTORNEY; PRO HAC VICE; ATTORNEY TO BE NOTICED
Allen Dyer Doppelt Milbrath & Gilchrist
P.O. Box 3791 255 South Orange Avenue Suite 1401
Orlando , FL 32802-3791
USA
407-841-2330
Email: Rsanturri@allendyer.Com

Enfora, Inc.
a Delaware Corporation
Defendant

Eric Anthony Caligiuri
LEAD ATTORNEY; ATTORNEY TO BE NOTICED
Weintraub Tobin
11682 El Camino Real Suite 305
San Diego , CA 92130
USA
858-436-8152
Email: Ecaligiuri@weintraub.Com

Jo Dale Carothers
LEAD ATTORNEY; ATTORNEY TO BE NOTICED
Weintraub Tobin
11682 El Camino Real Suite 305
San Diego , CA 92130
USA
858-436-8152
Email: Jcarothers@weintraub.Com

Ryan Altgeld Kurtz
ATTORNEY TO BE NOTICED
Miller & Martin, PLLC - ATL
Suite 2100 1180 West Peachtree Street, N.W.
Atlanta , GA 30309-3407
USA
404-962-6100
Fax: 404-962-6300
Email: Ryan.Kurtz@millermartin.Com

Date	#	Proceeding Text	Source
07/21/2017	1	COMPLAINT with Jury Demand, filed by Omega Patents, LLC.; and Summon(s) issued. (Filing fee $ 400.00 receipt number 113E-7279878.) (Attachments: # 1 Ex -A -Patent No. 6,346,876, # 2 Ex -B -Patent No. 6,756,885, # 3 Ex -C -Patent No. 8,032,278, # 4 Civil Cover Sheet)(eop) Please visit our website at http://www.gand.uscourts.gov/commonly-used-forms to obtain Pretrial Instructions which includes the Consent To Proceed Before U.S. Magistrate form. (Entered: 07/25/2017)	
07/21/2017	2	Electronic Summons Issued as to Enfora, Inc.. (eop) (Entered: 07/25/2017)	
07/21/2017	3	Certificate of Interested Persons by Omega Patents, LLC. (eop) (Entered: 07/25/2017)	
07/25/2017	4	AO Form 120 forwarded to Commissioner. (eop) (Entered: 07/25/2017)	
07/26/2017		Clerks Notation re 3 Certificate of Interested Persons, OK per TWT. (ss) (Entered: 07/26/2017)	

07/26/2017	5	Return of Service Executed by Omega Patents, LLC. Enfora, Inc. served on 7/26/2017, answer due 8/16/2017. (Lee, Cynthia) (Entered: 07/26/2017)
07/27/2017	6	APPLICATION for Admission of Ryan T. Santurri Pro Hac Vice (Application fee $ 150, receipt number 113E-7290404)by Omega Patents, LLC. (Lee, Cynthia) (Entered: 07/27/2017)
07/27/2017	7	APPLICATION for Admission of Brian R. Gilchrist Pro Hac Vice (Application fee $ 150, receipt number 113E-7291240)by Omega Patents, LLC. (Lee, Cynthia) (Entered: 07/27/2017)
07/31/2017	8	Application for Refund of Fees paid online through Pay.gov for receipt number 113E-7290387. (Lee, Cynthia) (Entered: 07/31/2017)
08/01/2017		Clerks Approval re 8 Application for Refund of Fees paid online. (mec) (Entered: 08/01/2017)
08/04/2017		Refund in the amount of $150.00 has been processed, effective 08/04/2017 in response to Clerks Action on Application for Refund of Fees paid online. (kns) (Entered: 08/04/2017)
08/15/2017	9	Consent MOTION for Extension of Time to File Answer by Enfora, Inc.. (Attachments: # 1 Text of Proposed Order)(Kurtz, Ryan) (Entered: 08/15/2017)
08/16/2017	10	ORDER granting 9 Motion for Extension of Time to Answer, Enfora, Inc. Answer due 10/2/2017. Signed by Judge Thomas W. Thrash, Jr on 8/16/2017. (ss) (Entered: 08/16/2017)
08/16/2017	11	APPLICATION for Admission of Jo Dale Carothers Pro Hac Vice (Application fee $ 150, receipt number 113E-7330621)by Enfora, Inc.. (Kurtz, Ryan) (Entered: 08/16/2017)
08/16/2017	12	APPLICATION for Admission of Eric Anthony Caligiuri Pro Hac Vice (Application fee $ 150, receipt number 113E-7330631)by Enfora, Inc.. (Kurtz, Ryan) (Entered: 08/16/2017)
08/17/2017		APPROVAL by Clerks Office re: 6 APPLICATION for Admission of Ryan T. Santurri Pro Hac Vice (Application fee $ 150, receipt number 113E-7290404). Attorney Ryan T. Santurri added appearing on behalf of Omega Patents, LLC (pmb) (Entered: 08/17/2017)
08/17/2017		APPROVAL by Clerks Office re: 7 APPLICATION for Admission of Brian R. Gilchrist Pro Hac Vice (Application fee $ 150, receipt number 113E-7291240). Attorney Brian R. Gilchrist added appearing on behalf of Omega Patents, LLC (pmb) (Entered: 08/17/2017)
08/18/2017	13	ORDER granting Brian R. Gilchrist's 7 Application for Admission Pro Hac Vice. Signed by Judge Thomas W. Thrash, Jr on 8/18/17. (jkl) (Entered: 08/18/2017)
08/18/2017	14	ORDER granting Ryan T. Santurri's 6 Application for Admission Pro Hac Vice. Signed by Judge Thomas W. Thrash, Jr on 8/18/17. (jkl) (Entered: 08/18/2017)
08/31/2017		APPROVAL by Clerks Office re: 11 APPLICATION for Admission of Jo Dale Carothers Pro Hac Vice (Application fee $ 150, receipt number 113E-7330621). Attorney Jo Dale Carothers added appearing on behalf of Enfora, Inc. (pmb) (Entered: 08/31/2017)
08/31/2017		APPROVAL by Clerks Office re: 12 APPLICATION for Admission of Eric Anthony Caligiuri Pro Hac Vice (Application fee $ 150, receipt number 113E-7330631). Attorney Eric Anthony Caligiuri added appearing on behalf of Enfora, Inc. (pmb) (Entered: 08/31/2017)
09/01/2017	15	ORDER granting Eric Anthony Caligiuri's 12 Application for Admission Pro Hac Vice. Signed by Judge Thomas W. Thrash, Jr on 9/1/17. (jkl) (Entered: 09/01/2017)
09/01/2017	16	

		ORDER granting Jo Dale Carothers's 11 Application for Admission Pro Hac Vice. Signed by Judge Thomas W. Thrash, Jr on 9/1/17. (jkl) (Entered: 09/01/2017)
09/01/2017		Clerk's Certificate of Mailing to Eric Anthony Caligiuri re 15 Order on Application for Admission PHV and Jo Dale Carothers re 16 Order on Application for Admission PHV. (jkl) (Entered: 09/01/2017)
10/02/2017	17	MOTION to Dismiss For Improper Venue, or in the Alternative, MOTION to Transfer to Southern District of California with Brief In Support by Enfora, Inc. (Attachments: # 1 Brief)(Kurtz, Ryan) . Added MOTION to Transfer Case on 10/3/2017 (jkl). (Entered: 10/02/2017)
10/02/2017	18	SEALED NOTICE Of Filing Memorandum of Law in Support of 17 MOTION to Dismiss For Improper Venue, or in the Alternative, MOTION to Transfer to Southern District of California by Enfora, Inc. (Kurtz, Ryan) Text modified on 10/3/2017 (jkl). (Entered: 10/02/2017)
10/02/2017	19	MOTION for Leave to File Matters Under Seal re: 18 Notice of Filing with Brief In Support by Enfora, Inc.. (Attachments: # 1 Text of Proposed Order)(Kurtz, Ryan) (Entered: 10/02/2017)
10/02/2017	20	Certificate of Interested Persons and Corporate Disclosure Statement by Enfora, Inc. identifying Corporate Parent Novatel Wireless, Inc., Corporate Parent Inseego Corp. for Enfora, Inc.. (Kurtz, Ryan) (Entered: 10/02/2017)
10/03/2017	21	ORDER granting 19 Motion for Leave to File Matters Under Seal. Signed by Judge Thomas W. Thrash, Jr on 10/3/17. (jkl) (Entered: 10/03/2017)
10/03/2017		Clerks Notation re 20 Certificate of Interested Persons, OK, per TWT. (ss) (Entered: 10/03/2017)
10/16/2017	22	AMENDED COMPLAINT and Exhibits (Redacted) against Enfora, Inc.with Jury Demand, filed by Omega Patents, LLC.(Santurri, Ryan) Please visit our website at http://www.gand.uscourts.gov/commonly-used-forms to obtain Pretrial Instructions which includes the Consent To Proceed Before U.S. Magistrate form. (Entered: 10/16/2017)
10/16/2017	23	SEALED NOTICE Of Filing Amended Complaint by Omega Patents, LLC re 1 Complaint, (Santurri, Ryan) Modified on 10/17/2017 (btql). (Entered: 10/16/2017)
10/16/2017	24	MOTION for Leave to File Matters Under Seal re: 23 Notice of Filing Amended Complaint and Exhibits by Omega Patents, LLC. (Attachments: # 1 Text of Proposed Order)(Santurri, Ryan) (Entered: 10/16/2017)
10/17/2017	25	ORDER GRANTING 24 Motion for Leave to File Matters Under Seal. Signed by Judge Thomas W. Thrash, Jr on 10/17/2017. (btql) (Entered: 10/17/2017)
10/23/2017		Submission of 17 MOTION to Dismiss For Improper Venue, or in the Alternative, MOTION to Transfer to Southern District of California to District Judge Thomas W. Thrash. (jkl) (Entered: 10/23/2017)
10/30/2017	26	MOTION to Dismiss , MOTION to Change Venue with Brief In Support by Enfora, Inc.. (Attachments: # 1 Brief)(Kurtz, Ryan) (Entered: 10/30/2017)
10/30/2017	27	MOTION for Leave to File Matters Under Seal re: 28 Notice of Filing with Brief In Support by Enfora, Inc. (Attachments: # 1 Text of Proposed Order)(Kurtz, Ryan) Modified on 10/31/2017 to link to proper document (jkl). (Entered: 10/30/2017)
10/30/2017	28	SEALED MEMORANDUM OF LAW in support of 26 MOTION to Dismiss/MOTION to Change Venue by Enfora, Inc. (Kurtz, Ryan) Modified on 11/3/2017 (jkl). (Entered: 10/30/2017)
10/31/2017	29	

		Consent MOTION to Stay Certain Pre-Discovery Deadlines by Enfora, Inc.. (Attachments: # 1 Text of Proposed Order)(Kurtz, Ryan) (Entered: 10/31/2017)
11/03/2017	31	ORDER granting 27 Motion for Leave to File Matters Under Seal. Signed by Judge Thomas W. Thrash, Jr on 11/2/17. (jkl) (Entered: 11/03/2017)
11/03/2017	32	ORDER GRANTING 29 Motion to Stay Certain Pre-Discovery Deadlines until 30 days after Defendant files its Answer to Plaintiffs FAC. Signed by Judge Thomas W. Thrash, Jr. on 11/2/17. (jkl) (Entered: 11/03/2017)
11/13/2017	33	RESPONSE in Opposition re 26 MOTION to Dismiss MOTION to Change Venue filed by Omega Patents, LLC. (Santurri, Ryan) (Entered: 11/13/2017)
11/13/2017	34	MOTION to Stay Pending Reexamination with Brief In Support by Enfora, Inc.. (Attachments: # 1 Brief, # 2 Exhibit A - Declaration of Jo Dale Carothers, # 3 Exhibit 1 t0 Dec of Jo Dale Carothers, # 4 Exhibit 2 to Dec of Jo Dale Carothers, # 5 Exhibit 3 to Dec of Jo Dale Carothers, # 6 Exhibit 4 to Dec of Jo Dale Carothers, # 7 Exhibit 5 part 1 to Dec of Jo Dale Carothers, # 8 Exhibit 5 part 2 to Dec of Jo Dale Carothers)(Kurtz, Ryan) (Entered: 11/13/2017)
11/27/2017	35	RESPONSE in Opposition re 34 MOTION to Stay Pending Reexamination filed by Omega Patents, LLC. (Santurri, Ryan) (Entered: 11/27/2017)
11/27/2017	36	REPLY to Response to Motion re 26 MOTION to Dismiss MOTION to Change Venue filed by Enfora, Inc.. (Kurtz, Ryan) (Entered: 11/27/2017)
11/27/2017	37	Per Order: SEALED and Filed at 40 Reply Brief NOTICE Of Filing by Enfora, Inc. (Kurtz, Ryan) Modified on 11/29/2017 (jkl). (Entered: 11/27/2017)
11/27/2017	38	MOTION for Leave to File Matters Under Seal re: 37 Notice of Filing by Enfora, Inc.. (Attachments: # 1 Text of Proposed Order)(Kurtz, Ryan) (Entered: 11/27/2017)
11/28/2017	39	ORDER granting 38 Motion for Leave to File Matters Under Seal. Signed by Judge Thomas W. Thrash, Jr on 11/28/17. (jkl) (Entered: 11/29/2017)
11/28/2017	40	REPLY BRIEF re 26 MOTION to Dismiss/MOTION to Change Venue filed UNDER SEAL by Enfora, Inc. (jkl) (Entered: 11/29/2017)
11/29/2017		Submission of 26 MOTION to Dismiss/ MOTION to Change Venue to District Judge Thomas W. Thrash. (jkl) (Entered: 11/29/2017)
12/01/2017	41	ORDER DENYING AS MOOT 17 Motion to Dismiss/Motion to Transfer Case. Signed by Judge Thomas W. Thrash, Jr on 11/30/17. (jkl) (Entered: 12/01/2017)
12/11/2017	42	REPLY BRIEF re 34 MOTION to Stay Pending Reexamination filed by Enfora, Inc.. (Kurtz, Ryan) (Entered: 12/11/2017)
12/18/2017	43	ORDER denying 26 Motion to Dismiss or Transfer. Signed by Judge Thomas W. Thrash, Jr on 12/18/17. (jpa) (Entered: 12/19/2017)
12/21/2017	44	Consent MOTION for Extension of Time to File Answer First Amended Complaint by Enfora, Inc.. (Attachments: # 1 Text of Proposed Order) (Kurtz, Ryan) (Entered: 12/21/2017)
12/27/2017	45	ORDER GRANTING 44 Motion for Extension of Time to Answer, Enfora, Inc. Answer due 1/16/2018. Signed by Judge Thomas W. Thrash, Jr. on 12/27/17. (bnw) (Entered: 12/27/2017)
12/28/2017		Submission of 34 MOTION to Stay Pending Reexamination, submitted to District Judge Thomas W. Thrash. (bnw) (Entered: 12/28/2017)
01/12/2018	46	Unopposed MOTION for Leave to File Sur-Reply In Support of Its Motion for A Stay Pending Reexamination by Enfora, Inc.. (Attachments: # 1 Exhibit 1 - Proposed Sur-Reply, # 2 Exhibit 2 - Proposed Order)(Kurtz, Ryan) (Entered: 01/12/2018)
01/16/2018	47	

		ORDER granting 46 Motion for Leave to File Sur-Reply In Support of Its Motion for A Stay Pending Reexamination. Signed by Judge Thomas W. Thrash, Jr on 1/16/18. (jkl) (Entered: 01/16/2018)
01/16/2018	48	Defendant's SUR-REPLY in Support of 34 MOTION to Stay Pending Reexamination filed by Enfora, Inc. (jkl) (Entered: 01/16/2018)
01/16/2018	49	ANSWER to 22 Amended Complaint by Enfora, Inc.. Discovery ends on 10/15/2018.(Kurtz, Ryan) Please visit our website at http://www.gand.uscourts.gov to obtain Pretrial Instructions. (Entered: 01/16/2018)
01/16/2018	50	SEALED ANSWER to Amended Complaint by Enfora, Inc. (Attachments: # 1 Exhibit A)(Kurtz, Ryan) Modified on 1/18/2018 (jkl). (Entered: 01/16/2018)
01/16/2018	51	MOTION for Leave to File Matters Under Seal re: 50 Notice of Filing with Brief In Support by Enfora, Inc.. (Attachments: # 1 Text of Proposed Order)(Kurtz, Ryan) (Entered: 01/16/2018)
01/18/2018	52	ORDER GRANTING 51 Motion for Leave to File Matters Under Seal and DIRECTING Clerk to file Defendant Enfora, Inc.s Answer and Defenses to Omega Patents, LLCs First Amended Complaint for Patent Infringement under seal. Signed by Judge Thomas W. Thrash, Jr on 1/18/18. (jkl) (Entered: 01/18/2018)
01/31/2018	53	ORDER GRANTING 34 Motion to Stay Pending Reexamination. The Clerk is directed to close the case administratively. The Plaintiff may move to reopen the case and lift the stay after 6 months. Signed by Judge Thomas W. Thrash, Jr on 1/31/18. (jkl) (Entered: 01/31/2018)
01/31/2018		Civil Case closed administratively. (jkl) (Entered: 01/31/2018)
01/31/2018	54	AO Form 120 forwarded to Director of the U.S. Patent and Trademark Office. (jkl) (Entered: 01/31/2018)

Copyright © 2018 LexisNexis CourtLink, Inc. All rights reserved.
*** THIS DATA IS FOR INFORMATIONAL PURPOSES ONLY ***

This case was appealed to
Federal Circuit: 18-1309

US District Court Civil Docket

U.S. District - Florida Middle
(Orlando)

6:13cv1950

Omega Patents, Llc v. Calamp Corp.

This case was retrieved from the court on Wednesday, November 28, 2018

Date Filed:	12/20/2013
Assigned To:	Judge Paul G. Byron
Referred To:	Magistrate Judge Daniel C. Irick
Nature of suit:	Patent (830)
Cause:	Patent Infringement
Lead Docket:	None
Other Docket:	USCAFC, 18-1309-FS
Jurisdiction:	Federal Question
Class Code:	CLOSED
Closed:	04/24/2017
Statute:	35:271
Jury Demand:	Both
Demand Amount:	$0
NOS Description:	Patent

Litigants	Attorneys
Omega Patents, Llc a Georgia limited liability company Plaintiff	Brian R. Gilchrist LEAD ATTORNEY;ATTORNEY TO BE NOTICED Allen, Dyer, Doppelt, & Gilchrist, PA 255 S Orange Ave - Ste 1401 Po Box 3791 Orlando , FL 32801 USA 407-841-2330 Fax: 407-841-2343 Email:Bgilchrist@allendyer.Com Christopher F Regan LEAD ATTORNEY;ATTORNEY TO BE NOTICED Allen, Dyer, Doppelt, Milbrath & Gilchrist, PA 255 S Orange Ave - Ste 1401 Po Box 3791 Orlando , FL 32802-3791 USA 407/841-2330 Fax: 407/841-2343 Email:Cregan@addmg.Com Ryan Thomas Santurri

LEAD ATTORNEY; ATTORNEY TO BE NOTICED
Allen, Dyer, Doppelt, & Gilchrist, PA
255 S Orange Ave - Ste 1401
Po Box 3791
Orlando , FL 32801
USA
407/841-2330
Fax: 407/841-2343
Email: Rsanturri@allendyer.Com

Calamp Corp.
a Delaware corporation
Defendant

Bryan C. Mulder
LEAD ATTORNEY; PRO HAC VICE; ATTORNEY TO BE NOTICED
Sidley Austin, LLP
One S. Dearborn St.
Chicago , IL 60603
USA
Email: Bmulder@sidley.Com

Christopher S. Carver
LEAD ATTORNEY; ATTORNEY TO BE NOTICED
Akerman LLP
350 East Las Olas Blvd Ste 1600
Fort Lauderdale , FL 33301-4247
USA
954/463-2700
Fax: 954/468-2454
Email: Christopher.Carver@akerman.Com

Constantine L. Trela , Jr.
LEAD ATTORNEY; PRO HAC VICE; ATTORNEY TO BE NOTICED
Sidley Austin LLP
One S Dearborn St
Chicago , IL 60603
USA
312-853-7000
Fax: 312-853-7036
Email: Ctrela@sidley.Com

Peter A. Chiabotti
LEAD ATTORNEY; ATTORNEY TO BE NOTICED
Akerman LLP
Ste 1100
777 S Flagler Dr
West Palm Beach , FL 33401-6161
USA
561/653-5000
Fax: 561/659-6313
Email: Peter.Chiabotti@akerman.Com

Stephanie P. Koh
LEAD ATTORNEY; PRO HAC VICE; ATTORNEY TO BE NOTICED
Sidley Austin LLP
One S Dearborn St
Chicago , IL 60603
USA
312/853-7038
Fax: 312/853-7036
Email: Skoh@sidley.Com

Thomas D. Rein
LEAD ATTORNEY; PRO HAC VICE; ATTORNEY TO BE NOTICED
Sidley Austin LLP
One S Dearborn St
Chicago , IL 60603
USA
312/853-7117
Fax: 312/853-7036
Email: Trein@sidley.Com

Thomas R. Yaegers
LEAD ATTORNEY; ATTORNEY TO BE NOTICED
Marriott Vacations Worldwide Co.
Ste. 300
6649 Westwood Blvd.
Orlando , FL 32821-6066
USA
407/206-2587
Fax: 407/254-4215
Email: Thomas.Yaegers@mvwc.Com

Carrie Ann Wozniak
ATTORNEY TO BE NOTICED
Akerman Senterfitt, LLP - Orlando
420 S Orange Ave - Ste 1200
Po Box 231
Orlando , FL 32802-0231
USA
407/423-4000
Fax: 407/843-6610
Email: Carrieann.Wozniak@akerman.Com

Charles R. Halloran
ATTORNEY TO BE NOTICED
[Term: 03/25/2016]
KPPB LLP
Suite 1050
2400 E. Katella Avenue
Anahein , CA 92806
USA
949/852-0000
Fax: 949/852-0004
Email: Charles.Halloran@kppb.Com

Eugene Chong
PRO HAC VICE; ATTORNEY TO BE NOTICED
[Term: 03/25/2016]
KPPB LLP
Suite 1050
2400 E. Katella Avenue
Anahein , CA 92806
USA
949-242-1034
Fax: 949-852-0004
Email: Eugene.Chong@kppb.Com

Joel A. Kauth
PRO HAC VICE; ATTORNEY TO BE NOTICED
KPPB LLP
Suite 1050

2400 E. Katella Avenue
Anahein , CA 92806
USA
949/242-1021
Fax: 949/852-0000
Email: Joel.Kauth@kppb.Com

Calamp Corp.
a Delaware corporation
Counter Claimant

Bryan C. Mulder
LEAD ATTORNEY; PRO HAC VICE; ATTORNEY TO BE NOTICED
Sidley Austin, LLP
One S. Dearborn St.
Chicago , IL 60603
USA
Email: Bmulder@sidley.Com

Carrie Ann Wozniak
LEAD ATTORNEY; ATTORNEY TO BE NOTICED
Akerman LLP
Ste 1200
420 S Orange Ave
Orlando , FL 32801
USA
407/423-4000
Fax: 407/843-6610
Email: Carrieann.Wozniak@akerman.Com

Christopher S. Carver
LEAD ATTORNEY; ATTORNEY TO BE NOTICED
Akerman LLP
350 East Las Olas Blvd Ste 1600
Fort Lauderdale , FL 33301-4247
USA
954/463-2700
Fax: 954/468-2454
Email: Christopher.Carver@akerman.Com

Constantine L. Trela , Jr.
LEAD ATTORNEY; PRO HAC VICE; ATTORNEY TO BE NOTICED
Sidley Austin LLP
One S Dearborn St
Chicago , IL 60603
USA
312-853-7000
Fax: 312-853-7036
Email: Ctrela@sidley.Com

Peter A. Chiabotti
LEAD ATTORNEY; ATTORNEY TO BE NOTICED
Akerman LLP
Ste 1100
777 S Flagler Dr
West Palm Beach , FL 33401-6161
USA
561/653-5000
Fax: 561/659-6313
Email: Peter.Chiabotti@akerman.Com

Stephanie P. Koh
LEAD ATTORNEY; PRO HAC VICE; ATTORNEY TO BE

NOTICED
Sidley Austin LLP
One S Dearborn St
Chicago , IL 60603
USA
312/853-7038
Fax: 312/853-7036
Email: Skoh@sidley.Com

Thomas D. Rein
LEAD ATTORNEY; PRO HAC VICE; ATTORNEY TO BE NOTICED
Sidley Austin LLP
One S Dearborn St
Chicago , IL 60603
USA
312/853-7117
Fax: 312/853-7036
Email: Trein@sidley.Com

Charles R. Halloran
ATTORNEY TO BE NOTICED
[Term: 03/25/2016]
KPPB LLP
Suite 1050
2400 E. Katella Avenue
Anahein , CA 92806
USA
949/852-0000
Fax: 949/852-0004
Email: Charles.Halloran@kppb.Com

Eugene Chong
PRO HAC VICE; ATTORNEY TO BE NOTICED
[Term: 03/25/2016]
KPPB LLP
Suite 1050
2400 E. Katella Avenue
Anahein , CA 92806
USA
949-242-1034
Fax: 949-852-0004
Email: Eugene.Chong@kppb.Com

Joel A. Kauth
PRO HAC VICE; ATTORNEY TO BE NOTICED
KPPB LLP
Suite 1050
2400 E. Katella Avenue
Anahein , CA 92806
USA
949/242-1021
Fax: 949/852-0000
Email: Joel.Kauth@kppb.Com

Omega Patents, Llc
a Georgia limited liability company
Counter Defendant

Brian R. Gilchrist
LEAD ATTORNEY; ATTORNEY TO BE NOTICED
Allen, Dyer, Doppelt, & Gilchrist, PA
255 S Orange Ave - Ste 1401
Po Box 3791
Orlando , FL 32801

USA
407-841-2330
Fax: 407-841-2343
Email: Bgilchrist@allendyer.Com

Christopher F Regan
LEAD ATTORNEY; ATTORNEY TO BE NOTICED
Allen, Dyer, Doppelt, Milbrath & Gilchrist, PA
255 S Orange Ave - Ste 1401
Po Box 3791
Orlando , FL 32802-3791
USA
407/841-2330
Fax: 407/841-2343
Email: Cregan@addmg.Com

Ryan Thomas Santurri
LEAD ATTORNEY; ATTORNEY TO BE NOTICED
Allen, Dyer, Doppelt, & Gilchrist, PA
255 S Orange Ave - Ste 1401
Po Box 3791
Orlando , FL 32801
USA
407/841-2330
Fax: 407/841-2343
Email: Rsanturri@allendyer.Com

Date	#	Proceeding Text	Source
12/20/2013	1	COMPLAINT Injunctive Relief Requested against Calamp Corp. with Jury Demand (Filing fee $ 400 receipt number Orl-030433) filed by Omega Patents, LLC. (Attachments: # 1 Civil Cover Sheet, # 2 Exhibit A-C, # 3 Exhibit D-F)(JEV) (Entered: 12/20/2013)	
12/20/2013	2	SUMMONS issued as to Calamp Corp. (JEV) (Entered: 12/20/2013)	
12/20/2013	3	Patent Report sent to Alexandria, VA. (Attachments: # 1 Complaint, # 2 Exhibit A-C, # 3 Exhibit D-F) (JEV) (Entered: 12/20/2013)	
12/30/2013	4	RELATED CASE ORDER AND NOTICE of designation under Local Rule 3.05 - track 2. Notice of pendency of other actions due by 1/13/2014. Signed by Judge Gregory A. Presnell on 12/30/2013. Copies mailed.(LAM) (Entered: 12/30/2013)	
12/30/2013	5	INTERESTED PERSONS ORDER. Certificate of interested persons and corporate disclosure statement due by 1/13/2014. Signed by Judge Gregory A. Presnell on 12/30/2013. Copies mailed.(LAM) (Entered: 12/30/2013)	
01/14/2014	6	NOTICE of pendency of related cases re 4 Related case order and track 2 notice per Local Rule 1.04(d) by Omega Patents, LLC. Related case(s): Yes. (Santurri, Ryan) Modified on 1/15/2014 (JEV). (Entered: 01/14/2014)	
01/14/2014	7	CERTIFICATE of interested persons and corporate disclosure statement re 5 Interested persons order by Omega Patents, LLC. (Santurri, Ryan) (Entered: 01/14/2014)	
01/15/2014	8	NOTICE of Appearance by Christopher S. Carver on behalf of Calamp Corp. (Carver, Christopher) (Entered: 01/15/2014)	
01/15/2014	9	NOTICE of pendency of related cases re 4 Related Case Order per Local Rule 1.04(d) by Calamp Corp. Related case(s): yes (Carver, Christopher) Modified on 1/16/2014 (JET). (Entered: 01/15/2014)	
01/15/2014	10		

		ANSWER and affirmative defenses to 1 Complaint with Jury Demand , COUNTERCLAIM against Omega Patents, LLC by Calamp Corp. (Carver, Christopher) Modified on 1/16/2014 (JET). (Entered: 01/15/2014)
01/15/2014	11	CERTIFICATE of interested persons and corporate disclosure statement re 5 Interested persons order by Calamp Corp.. (Carver, Christopher) (Entered: 01/15/2014)
01/15/2014	12	*** PRO HAC VICE FEES paid and Special Admission Attorney Certification Form filed by attorney Joel A. Kauth, appearing on behalf of Calamp Corp. (Filing fee $10 receipt number ORL31013) re 22 MOTION for Joel A. Kauth to appear pro hac vice by Calamp Corp. (JET) (JET). Modified on 3/4/2014 (IGC). (Entered: 01/15/2014)
01/16/2014	13	NOTICE to counsel Joel A. Kauth of Local Rule 2.02 (signed by deputy clerk). (JET) (Entered: 01/16/2014)
01/17/2014	14	NOTICE to counsel Christopher S. Carver of Local Rule 2.01 (signed by deputy clerk). (JET) (Entered: 01/17/2014)
01/17/2014	15	NOTICE of Appearance by Peter A. Chiabotti on behalf of Calamp Corp. (Chiabotti, Peter) (Entered: 01/17/2014)
01/29/2014	16	CERTIFICATE of compliance re: Service of documents 4 , 5 , 6 and 7 on Defendant by Omega Patents, LLC. (Gilchrist, Brian) Modified on 1/30/2014 (JET). (Entered: 01/29/2014)
02/05/2014	17	MOTION to Dismiss Counterclaims and Memorandum in Support by Omega Patents, LLC. (Santurri, Ryan) (Entered: 02/05/2014)
02/06/2014	18	Unopposed MOTION to Appear Telephonically at Case Management Conference by Calamp Corp. (Carver, Christopher) Modified on 2/7/2014 (JET). (Entered: 02/06/2014)
02/07/2014	19	ORDER granting 18 Motion to attend case management conference by phone. Signed by Judge Gregory A. Presnell on 2/7/2014. (TKW) (Entered: 02/07/2014)
02/24/2014	20	Amended COUNTERCLAIM -- CalAmp Corp.'s First Amended Counterclaim against Omega Patents, LLC filed by Calamp Corp..(Carver, Christopher) (Entered: 02/24/2014)
02/26/2014	21	ORDER denying as moot 17 motion to dismiss original counterclaim. Signed by Judge Gregory A. Presnell on 2/26/2014. (TKW) (Entered: 02/26/2014)
03/03/2014	22	MOTION for Joel A. Kauth to appear pro hac vice by Calamp Corp.. (Attachments: # 1 Exhibit A - (proposed) Order Granting Motion to Appeal Pro Hac Vice of Attorney Joel A. Kauth)(Carver, Christopher) Motions referred to Magistrate Judge David A. Baker. (Entered: 03/03/2014)
03/03/2014	23	Written designation and consent to act by Christopher S. Carver on behalf of Calamp Corp.. Local Counsel: Christopher S. Carver. Non-Resident Counsel: Joel A. Kauth. (Carver, Christopher) (Entered: 03/03/2014)
03/04/2014	24	ENDORSED ORDER granting 22 motion to appear pro hac vice. Provided, all counsel shall register for and use the electronic filing system as adopted by the Court. After this Order, the Clerk will no longer send copies of docket entries by U.S. Mail to counsel in this case. Appearance and participation by more than one attorney at any hearing or trial is subject to the discretion of the presiding judge. Signed by Magistrate Judge David A. Baker on 3/4/2014. (Baker, David) (Entered: 03/04/2014)
03/11/2014	25	REPLY to 20 Counterclaim by Omega Patents, LLC.(Santurri, Ryan) (Entered: 03/11/2014)
03/11/2014	26	CASE MANAGEMENT REPORT. (Gilchrist, Brian) (Entered: 03/11/2014)
03/12/2014	27	ORDER of recusal. Signed by Judge Gregory A. Presnell on 3/12/2014. (TKW) (Entered: 03/12/2014)

03/12/2014	28	Case Reassigned to Judge Charlene Edwards Honeywell. New case number: 6:13-cv-1950-Orl-36DAB. Judge Gregory A. Presnell no longer assigned to the case. (IGC) (Entered: 03/12/2014)
03/14/2014	29	CASE MANAGEMENT AND SCHEDULING ORDER: Amended Pleadings due by 4/18/2014, Joinder of Parties due by 4/18/2014, Discovery due by 6/1/2015, Dispositive motions due by 7/1/2015, Pretrial statement due by 9/15/2015, Conduct mediation hearing by 6/16/2015. Lead counsel to coordinate dates. Claim Construction Hearing set for 11/24/2014 at 10:00 AM in Orlando Courtroom 5 B before Judge Charlene Edwards Honeywell. Final Pretrial Conference set for 10/20/2015 at 01:30 PM in Orlando Courtroom 5 B before Judge Charlene Edwards Honeywell, Jury Trial set for 11/2/2015 term in Orlando Courtroom 5 B before Judge Charlene Edwards Honeywell. Signed by Judge Charlene Edwards Honeywell on 3/14/2014. (NBL) (Entered: 03/14/2014)
03/14/2014	30	CASE REFERRED to Mediation. (MAA) (Entered: 03/19/2014)
03/27/2014	31	NOTICE of mediation conference/hearing to be held on 11/10/2014 at 9:30 a.m. before Emery H. Rosenbluth, Jr., Esq..(Santurri, Ryan) (Entered: 03/27/2014)
04/16/2014	32	* * * PRO HAC VICE FEES paid and Special Admission Attorney Certification Form filed by attorney Eugene K. Chong, appearing on behalf of Calamp Corp. (Filing fee $10 receipt number ORL-33338). (MAA) (MAA). (Entered: 04/16/2014)
05/07/2014	33	MOTION for Eugene Chong to appear pro hac vice by Calamp Corp.. (Attachments: # 1 Exhibit A - (proposed) Order Granting Motion to Appear Pro Hace Vice)(Carver, Christopher) Motions referred to Magistrate Judge David A. Baker. (Entered: 05/07/2014)
05/07/2014	34	ENDORSED ORDER granting 33 motion to appear pro hac vice. Provided, all counsel shall register for and use the electronic filing system as adopted by the Court. After this Order, the Clerk will no longer send copies of docket entries by U.S. Mail to counsel in this case. Signed by Magistrate Judge David A. Baker on 5/7/2014. (Baker, David) (Entered: 05/07/2014)
07/02/2014	35	Case Reassigned to Judge Paul G. Byron. New case number: 6:13-cv-1950-Orl-40-DAB. Judge Charlene Edwards Honeywell no longer assigned to the case. (SC) (Entered: 07/02/2014)
07/03/2014	36	AMENDED NOTICE of Claim Construction Hearing: Claim Construction Hearing set for 11/24/2014 at 10:00 AM in Orlando Courtroom 4 B before Judge Paul G. Byron, U.S. District Court, 401 West Central Blvd., Orlando, Florida. (NBL) copies e-mailed (Entered: 07/03/2014)
07/07/2014	37	AMENDED NOTICE of hearing: Final Pretrial Conference set for 10/20/2015 at 1:30 PM in Orlando Courtroom 4 B before Judge Paul G. Byron, Jury Trial set for the November 2015 Trial term, term commencing 11/2/2015 at 09:00 AM in Orlando Courtroom 4 B before Judge Paul G. Byron. (NBL) copies e-mailed (Entered: 07/07/2014)
09/05/2014	38	MOTION for miscellaneous relief, specifically Motion for Claim Construction by Omega Patents, LLC. (Attachments: # 1 Exhibit A - U.S. Patent 6,346,876, # 2 Exhibit B - U.S. Patent 6,756,885, # 3 Exhibit C - U.S. Patent 5,719,551)(Santurri, Ryan) (Entered: 09/05/2014)
09/05/2014	39	DEFENDANT'S Opening Claim Construction Brief re 29 Case management and scheduling orderSet Hearings filed by Calamp Corp.. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D)(Kauth, Joel) Modified on 9/8/2014 (MAA). (Entered: 09/05/2014)
10/03/2014	40	RESPONSE in opposition to 39 Motion for Claim Construction filed by Omega Patents, LLC. (Santurri, Ryan) Modified on 10/6/2014 (LAK). (Entered: 10/03/2014)
10/03/2014	41	RESPONSIVE Claim Construction brief filed by Calamp Corp. (Kauth, Joel) Modified on 10/6/2014 (LAK). (Entered: 10/03/2014)

10/30/2014	42	ORDER re: Claim Construction Hearing. Signed by Judge Paul G. Byron on 10/30/2014. (RML) (Entered: 10/30/2014)
11/11/2014	43	MEDIATION report Hearing held on 111014. Hearing outcome: Impasse.. (Rosenbluth, Emery) (Entered: 11/11/2014)
11/17/2014	44	RESPONSE re 42 Order pdf -- Joint Pre-Hearing Statement filed by Omega Patents, LLC. (Gilchrist, Brian) (Entered: 11/17/2014)
11/21/2014	45	NOTICE of Appearance by Carrie Ann Wozniak on behalf of Calamp Corp. (Wozniak, Carrie) (Entered: 11/21/2014)
11/24/2014	46	Minute Entry (CLAIM CONSTRUCTION HEARING) Proceedings held before Judge Paul G. Byron on 11/24/2014. Written Order to issue. Court Reporter: Koretta Stanford (NBL) (Entered: 11/24/2014)
11/28/2014	47	NOTICE RESCHEDULING FINAL PRETRIAL CONFERENCE (TIME ONLY): Final Pretrial Conference reset for 10/20/2015 at 3:00 PM in Orlando Courtroom 4 B before Judge Paul G. Byron, U.S. District Court, 401 West Central Blvd., Orlando, Florida. *(previously noticed for 1:30 p.m.) (NBL) copies mailed/e-mailed (Entered: 11/28/2014)
12/12/2014	48	PLAINTIFF'S BRIEF/Memorandum of Law on Markman Issues re 46 Miscellaneous Hearing filed by Omega Patents, LLC. (Santurri, Ryan) Text modified on 12/15/2014 (RDO). (Entered: 12/12/2014)
12/12/2014	49	SUPPLEMENTAL BRIEF on Claim Construction re 46 Miscellaneous Hearing filed by Calamp Corp.. (Kauth, Joel) Text modified on 12/15/2014 (RDO). (Entered: 12/12/2014)
02/20/2015	50	ORDER ON CLAIM CONSTRUCTION re: 38 , 39 . Signed by Judge Paul G. Byron on 2/20/2015. (RML) (Entered: 02/20/2015)
03/23/2015	51	Joint MOTION for Extension of Time to Complete Discovery to June 15, 2015 by Calamp Corp.. (Kauth, Joel) Motions referred to Magistrate Judge David A. Baker. (Entered: 03/23/2015)
03/24/2015	52	ENDORSED ORDER granting 51 Motion for Extension of Time to Complete Discovery. Provided, however, this extension in no way relieves the parties of other obligations and deadlines set forth in the Scheduling Order. Further, this extension shall not be the basis for seeking relief from that Order. Provided further, this extension assumes that there will be no disputes regarding discovery within this extended period, and the Court will not entertain any motions pertaining to such disputes. In particular, the parties are reminded that the deadline for filing of dispositive motions is NOT extended. Signed by Magistrate Judge David A. Baker on 3/24/2015. (Baker, David) (Entered: 03/24/2015)
03/25/2015		Set/reset scheduling order deadlines: Discovery due by 6/15/2015 (RDO) (Entered: 03/25/2015)
07/01/2015	53	Joint MOTION for leave to file Exhibits Under Seal in Connection with Daubert and Dispositive Motions by Omega Patents, LLC. (Santurri, Ryan) (Entered: 07/01/2015)
07/01/2015	54	MOTION for summary judgment as to Validity, Infringement, Enforceability, and Unfair Competition by Omega Patents, LLC. (Santurri, Ryan) (Entered: 07/01/2015)
07/01/2015	55	MOTION for miscellaneous relief, specifically Motion and Memorandum of Law to Exclude the Testimony of Defendant's Expert Eric Andrews by Omega Patents, LLC. (Santurri, Ryan) (Entered: 07/01/2015)
07/01/2015	56	MOTION for miscellaneous relief, specifically Motion and Memorandum to Exclude the Testimony of Defendant's Expert on Damages, DeForest McDuff, Ph.D. by Omega Patents, LLC. (Santurri, Ryan) (Entered: 07/01/2015)
07/01/2015	57	APPENDIX re 56 MOTION for miscellaneous relief, specifically Motion and Memorandum to Exclude the Testimony of Defendant's Expert on

		Damages, DeForest McDuff, Ph.D. , 54 MOTION for summary judgment as to Validity, Infringement, Enforceability, and Unfair Competition, 55 MOTION for miscellaneous relief, specifically Motion and Memorandum of Law to Exclude the Testimony of Defendant's Expert Eric Andrews by Omega Patents, LLC. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 11, # 12 Exhibit 12) (Santurri, Ryan) (Entered: 07/01/2015)
07/01/2015	58	(** STRICKEN per 77 Order **) MOTION for summary judgment of invalidity by Calamp Corp. (Kauth, Joel) Modified on 7/22/2015 (SWT). (Entered: 07/01/2015)
07/01/2015	59	DECLARATION of Eric Andrews by Calamp Corp. in support of 58 Motion for Summary Judgment. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H, # 9 Exhibit I, # 10 Exhibit J, # 11 Exhibit K, # 12 Exhibit L, # 13 Exhibit M, # 14 Exhibit N)(Kauth, Joel) Modified on 7/2/2015 (RDO). (Entered: 07/01/2015)
07/01/2015	60	(** STRICKEN per 77 Order **) MOTION for summary judgment of noninfringement by Calamp Corp. (Kauth, Joel) Modified on 7/22/2015 (SWT). (Entered: 07/02/2015)
07/02/2015	61	DECLARATION of Eric Andrews by Calamp Corp.in support of 60 Motion for Summary Judgment. (Attachments: # 1 Exhibit A)(Kauth, Joel) Modified on 7/2/2015 (RDO). (Entered: 07/02/2015)
07/02/2015	62	ENDORSED ORDER granting 53 Joint Motion for Leave to File Exhibits Under Seal in Connection with Daubert and Dispositive Motions. Signed by Judge Paul G. Byron on 7/2/2015. (MMW) (Entered: 07/02/2015)
07/02/2015	63	APPENDIX re 61 Declaration of Eric Andrews in Support of Motion for Summary Judgment of Noninfringement by Calamp Corp.. (Attachments: # 1 Exhibit B-1, # 2 Exhibit B-2, # 3 Exhibit C-1, # 4 Exhibit C-2, # 5 Exhibit D-1, # 6 Exhibit D-2, # 7 Exhibit E-1, # 8 Exhibit E-2, # 9 Exhibit F-1, # 10 Exhibit F-2, # 11 Exhibit F-3)(Kauth, Joel) (Entered: 07/02/2015)
07/02/2015	64	MOTION to Strike 60 MOTION for summary judgment of noninfringement in Exceedence of CMSO Limitation on Motions for Summary Judgment by Omega Patents, LLC. (Santurri, Ryan) Motions referred to Magistrate Judge David A. Baker. (Entered: 07/02/2015)
07/06/2015	65	SUMMARY JUDGMENT NOTICE re 58 MOTION for summary judgment of invalidity, 54 MOTION for summary judgment as to Validity, Infringement, Enforceability, and Unfair Competition, 60 MOTION for summary judgment of noninfringement. Unless the Court notifies the parties otherwise, there will not be a hearing on this motion. (NBL) copies e-mailed (Entered: 07/06/2015)
07/06/2015		Sealed Document S-66. (MAA) (Entered: 07/08/2015)
07/08/2015	67	Unopposed MOTION for Extension of Time to File Response to Document 60 Pending Ruling on Plaintiff's Motion to Strike by Omega Patents, LLC. (Santurri, Ryan) (Entered: 07/08/2015)
07/09/2015	68	ENDORSED ORDER granting 67 Motion for Extension of Time to File. Signed by Judge Paul G. Byron on 7/9/2015. (MMW) (Entered: 07/09/2015)
07/09/2015	69	AMENDED CASE MANAGEMENT AND SCHEDULING ORDER. Signed by Judge Paul G. Byron on 7/9/2015. (MMW) (Entered: 07/09/2015)
07/10/2015		Set/reset scheduling order deadlines: Pretrial statement due by 9/22/2015, All other motions due by 9/29/2015, Final Pretrial Conference set for 10/20/2015 at 03:00 PM in Orlando Courtroom 4 B before Judge Paul G. Byron, Jury Trial set for trial term beginning on 11/2/2015 at

		09:00 AM in Orlando Courtroom 4 B before Judge Paul G. Byron. (RDO) (Entered: 07/10/2015)
07/20/2015	70	RESPONSE in Opposition re 58 MOTION for summary judgment of invalidity filed by Omega Patents, LLC. (Attachments: # 1 Exhibit 13) (Santurri, Ryan) (Entered: 07/20/2015)
07/20/2015	71	STIPULATION of Undisputed Facts; re 54 MOTION for summary judgment as to Validity, Infringement, Enforceability, and Unfair Competition by Omega Patents, LLC. (Santurri, Ryan) Modified on 7/21/2015 (SWT). (Entered: 07/20/2015)
07/20/2015	72	RESPONSE in Opposition re 64 MOTION to Strike 60 MOTION for summary judgment of noninfringement in Exceedence of CMSO Limitation on Motions for Summary Judgment filed by Calamp Corp.. (Kauth, Joel) (Entered: 07/20/2015)
07/20/2015	73	Joint STIPULATION of Agreed Material Facts; re 58 MOTION for summary judgment of invalidity by Calamp Corp. (Kauth, Joel) Modified on 7/21/2015 (SWT). (Entered: 07/20/2015)
07/20/2015	74	RESPONSE in Opposition re 56 MOTION for miscellaneous relief, specifically Motion and Memorandum to Exclude the Testimony of Defendant's Expert on Damages, DeForest McDuff, Ph.D. filed by Calamp Corp.. (Kauth, Joel) (Entered: 07/20/2015)
07/20/2015	75	RESPONSE in Opposition re 55 MOTION for miscellaneous relief, specifically Motion and Memorandum of Law to Exclude the Testimony of Defendant's Expert Eric Andrews filed by Calamp Corp.. (Kauth, Joel) (Entered: 07/20/2015)
07/20/2015	76	RESPONSE in Opposition re 54 MOTION for summary judgment as to Validity, Infringement, Enforceability, and Unfair Competition filed by Calamp Corp.. (Attachments: # 1 Appendix, # 2 Exhibit 1, # 3 Exhibit 2, # 4 Exhibit 3, # 5 Exhibit 4, # 6 Exhibit 5, # 7 Exhibit 6, # 8 Exhibit 7, # 9 Exhibit 8, # 10 Exhibit 9, # 11 Exhibit 10, # 12 Exhibit 11, # 13 Exhibit 12)(Kauth, Joel) (Entered: 07/21/2015)
07/21/2015	77	ORDER granting in part 64 Motion to strike 58 MOTION for summary judgment and 60 MOTION for summary judgment. Defendant shall have until Monday, July 27, 2015, in which to file a single compliant motion for summary judgment. Signed by Magistrate Judge David A. Baker on 7/21/2015. (LAK) (Entered: 07/21/2015)
07/27/2015	78	MOTION for summary judgment and memorandum of law regarding invalidity and noninfringement by Calamp Corp.. (Kauth, Joel) (Entered: 07/27/2015)
08/03/2015	79	REPLY to Response to Motion re 54 MOTION for summary judgment as to Validity, Infringement, Enforceability, and Unfair Competition filed by Omega Patents, LLC. (Santurri, Ryan) (Entered: 08/03/2015)
08/04/2015	80	SUMMARY JUDGMENT NOTICE re 78 MOTION for summary judgment and memorandum of law regarding invalidity and noninfringement. Unless the Court notifies the parties otherwise, there will not be a hearing on this motion. (NBL) copies e-mailed (Entered: 08/04/2015)
08/06/2015	81	RESPONSE in Opposition re 78 MOTION for summary judgment and memorandum of law regarding invalidity and noninfringement filed by Omega Patents, LLC. (Attachments: # 1 Exhibit 13)(Santurri, Ryan) (Entered: 08/06/2015)
08/06/2015	82	REQUEST for oral argument re 56 MOTION for miscellaneous relief, specifically Motion and Memorandum to Exclude the Testimony of Defendant's Expert on Damages, DeForest McDuff, Ph.D. , 54 MOTION for summary judgment as to Validity, Infringement, Enforceability, and Unfair Competition, 55 MOTION for miscellaneous relief, specifically Motion and Memorandum of Law to Exclude the Testimony of Defendant's Expert Eric Andrews by Omega Patents, LLC. (Santurri, Ryan) (Entered: 08/06/2015)

08/24/2015	83	REPLY in support of 78 MOTION for summary judgment and memorandum of law regarding invalidity and noninfringement filed by Calamp Corp.. (Kauth, Joel) Text modified on 8/25/2015 (RDO). (Entered: 08/24/2015)
08/27/2015	84	UNOPPOSED MOTION for miscellaneous relief, specifically For Lead Counsel To Attend Meeting to Prepare Joint Final Pretrial Statement by Video Conference by Calamp Corp.. (Kauth, Joel) Text modified on 8/28/2015 (RDO). (Entered: 08/27/2015)
08/28/2015	85	ENDORSED ORDER granting 84 Unopposed Motion for Lead Counsel to Attend Meeting to Prepare Joint Final Pretrial Statement by Video Conference. Signed by Judge Paul G. Byron on 8/28/2015. (MMW) (Entered: 08/28/2015)
09/08/2015	86	MOTION for Charles Halloran to appear pro hac vice by Calamp Corp.. (Wozniak, Carrie) Motions referred to Magistrate Judge David A. Baker. (Entered: 09/08/2015)
09/09/2015	87	ENDORSED ORDER granting 86 motion to appear pro hac vice. Signed by Magistrate Judge David A. Baker on 9/9/2015. (Baker, David) (Entered: 09/09/2015)
09/09/2015	88	* * * PRO HAC VICE FEES paid and Special Admission Attorney Certification Form filed by attorney Charles Halloran, appearing on behalf of Calamp Corp. (Filing fee $150 receipt number ORL-46938.) Related document: 86 MOTION for Charles Halloran to appear pro hac vice. (MAA) (MAA). (Entered: 09/09/2015)
09/17/2015	89	SUPPLEMENT re 54 MOTION for summary judgment as to Validity, Infringement, Enforceability, and Unfair Competition by Omega Patents, LLC. (Attachments: # 1 Exhibit Exhibit A)(Santurri, Ryan) (Entered: 09/17/2015)
09/22/2015	90	Joint PRETRIAL statement by Omega Patents, LLC and Calamp Corp. (Attachments: # 1 Exhibit A - Plaintiff's Exhibit List, # 2 Exhibit B - Defendant's Exhibit List, # 3 Exhibit C - Plaintiff's Witness List, # 4 Exhibit D - Defendant's Witness List, # 5 Exhibit E - Plaintiff's Deposition Designations, # 6 Exhibit F - Defendant's Deposition Designations, # 7 Exhibit G - Plaintiff's Proposed Voir Dire, # 8 Exhibit H - Defendant's Proposed Voir Dire, # 9 Exhibit I - Jury Instructions, # 10 Exhibit J - Plaintiff's Proposed Verdict Form, # 11 Exhibit K - Defendant's Proposed Verdict Form)(Santurri, Ryan) Modified on 9/23/2015 (SWT). (Entered: 09/22/2015)
09/23/2015	91	NOTICE OF CONTINUANCE OF TRIAL TERM and FINAL PRETRIAL CONFERENCE: Final Pretrial Conference is rescheduled for 11/17/2015 at 3:00 PM in Orlando Courtroom 4 B before Judge Paul G. Byron. Jury Trial set for the DECEMBER 2015 TRIAL TERM, term commencing 12/1/2015 in Orlando Courtroom 4 B before Judge Paul G. Byron. (NBL) copies e-mailed (Entered: 09/23/2015)
09/24/2015	92	NOTICE by Calamp Corp. of Conflict with Trial Docket (Wozniak, Carrie) (Entered: 09/24/2015)
09/29/2015	93	MOTION to Bifurcate Issues of Inequitable Conduct and Prosecution Laches by Omega Patents, LLC. (Santurri, Ryan) (Entered: 09/29/2015)
09/29/2015	94	MOTION in limine by Omega Patents, LLC. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F) (Santurri, Ryan) (Entered: 09/29/2015)
09/29/2015	95	MOTION for miscellaneous relief, specifically That U.S. Patent Nos. 6,346,876 B1, 6,756,885 B1, 7,671,727 B2, and 8,032,278 B2 are not entitled to any priority date earlier than their actual filing dates by Calamp Corp.. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H, # 9 Exhibit I, # 10 Exhibit J)(Kauth, Joel) (Entered: 09/29/2015)
09/29/2015	96	

		MOTION in limine by Calamp Corp.. (Attachments: # 1 Exhibit A, # 2 Exhibit B)(Kauth, Joel) (Entered: 09/29/2015)
10/13/2015	97	RESPONSE in Opposition re 95 MOTION for miscellaneous relief, specifically That U.S. Patent Nos. 6,346,876 B1, 6,756,885 B1, 7,671,727 B2, and 8,032,278 B2 are not entitled to any priority date earlier than their actual filing dates filed by Omega Patents, LLC. (Santurri, Ryan) (Entered: 10/13/2015)
10/13/2015	98	RESPONSE in Opposition re 96 MOTION in limine filed by Omega Patents, LLC. (Santurri, Ryan) (Entered: 10/13/2015)
10/13/2015	99	TRIAL BRIEF by Calamp Corp.. (Kauth, Joel) (Entered: 10/13/2015)
10/16/2015	100	RESPONSE in Opposition re 93 MOTION to Bifurcate Issues of Inequitable Conduct and Prosecution Laches filed by Calamp Corp.. (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit, # 5 Exhibit, # 6 Exhibit) (Kauth, Joel) (Entered: 10/16/2015)
10/16/2015	101	RESPONSE in Opposition re 94 MOTION in limine filed by Calamp Corp.. (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit, # 5 Exhibit, # 6 Exhibit, # 7 Exhibit)(Kauth, Joel) (Entered: 10/16/2015)
11/02/2015	102	NOTICE RESCHEDULING FINAL PRETRIAL CONFERENCE (TIME ONLY): Final Pretrial Conference is reset for 11/17/2015 at 1:30 PM in Orlando Courtroom 4 B before Judge Paul G. Byron, U.S. District Court, 401 West Central Blvd., Orlando, Florida. *(previously noticed for 3:00 pm) (NBL) copies e-mailed (Entered: 11/02/2015)
11/13/2015	103	ENDORSED ORDER re 102 Notice of Hearing. All counsel may appear by telephone for the final pretrial conference. This case will not be on the December trial term, therefore another final pretrial conference will be noticed for the month prior to the start of the new trial term. Signed by Judge Paul G. Byron on 11/13/2015. (MMW) (Entered: 11/13/2015)
11/16/2015	104	NOTICE TO COUNSEL REGARDING TELEPHONIC FINAL PRETRIAL CONFERENCE: Counsel shall appear by calling into the Toll Free Meeting Number: 1-888-363-4735, Access Code: 3126210 and Security Code: 111715. (NBL) copies e-mailed (Entered: 11/16/2015)
11/17/2015	105	Minute Entry. (PRETRIAL CONFERENCE) Proceedings held before Judge Paul G. Byron on 11/17/2015. Court Reporter: Koretta Stanford (NBL) (Entered: 11/17/2015)
11/17/2015	106	NOTICE of Daubert Hearing (Oral Argument) re 56 MOTION to Exclude the Testimony of Defendant's Expert on Damages, DeForest McDuff, Ph.D. Daubert Hearing is set for 12/8/2015 at 1:30 PM in Orlando Courtroom 4 B before Judge Paul G. Byron. The Court has set aside (30) minutes per side. (NBL) copies e-mailed (Entered: 11/17/2015)
11/17/2015	107	NOTICE OF DATE CERTAIN JURY TRIAL: Jury Trial shall commence on Tuesday, 2/16/2016 at 9:00 AM in Orlando Courtroom 4 B before Judge Paul G. Byron,U.S. District Court, 401 West Central Blvd., Orlando, Florida. Trial is estimated at (5)days. (NBL) copies e-mailed (Entered: 11/17/2015)
11/17/2015	108	NOTICE OF FINAL PRETRIAL CONFERENCE: Final Pretrial Conference is set for 1/20/2016 at 3:00 PM in Orlando Courtroom 4 B before Judge Paul G. Byron, U.S. District Court, 401 West Central Blvd., Orlando, Florida. (NBL) copies emailed (Entered: 11/17/2015)
11/17/2015	109	NOTICE Regarding Summary Judgment Exhibits by Omega Patents, LLC re 54 MOTION for summary judgment as to Validity, Infringement, Enforceability, and Unfair Competition (Attachments: # 1 Exhibit PX5) (Santurri, Ryan) Text modified on 11/18/2015 (RDO). (Entered: 11/17/2015)
11/19/2015	110	NOTICE RESCHEDULING DAUBERT HEARING: re 56 Motion and Memorandum to Exclude the Testimony of Defendant's Expert on

		Damages, DeForest McDuff, Ph.D. The Daubert Hearing is rescheduled for Friday, 12/11/2015 at 1:00 PM in Orlando Courtroom 4 B before Judge Paul G. Byron, U.S. District Court, 401 West Central Blvd., Orlando, Florida. The Court has set aside (30) minutes per side. (NBL) copies e-mailed (Entered: 11/19/2015)
11/19/2015	111	NOTICE TO COUNSEL: The Daubert Hearing scheduled for December 11, 2015 at 1:00 pm will be Oral Argument, (30) minutes per side. (NBL) copies e-mailed (Entered: 11/19/2015)
11/19/2015	112	NOTICE of Appearance as Additional Counsel Appearance by Thomas R. Yaegers on behalf of Calamp Corp. (Yaegers, Thomas) (Entered: 11/19/2015)
11/30/2015	113	NOTICE by Omega Patents, LLC Regarding Accused Products (Santurri, Ryan) (Entered: 11/30/2015)
11/30/2015	114	NOTICE by Calamp Corp. Regarding Accused Devices (Attachments: # 1 Exhibit 1, # 2 Exhibit 2)(Kauth, Joel) (Entered: 11/30/2015)
12/11/2015	115	Minute Entry (DAUBERT HEARING) Proceedings held before Judge Paul G. Byron re 56 MOTION to Exclude the Testimony of Defendant's Expert on Damages, DeForest McDuff, Ph.D. Court takes motion under advisement. Court Reporter: Koretta Stanford (NBL) (Entered: 12/11/2015)
12/22/2015	116	NOTICE RESCHEDULING FINAL PRETRIAL CONFERENCE (TIME ONLY): Final Pretrial Conference is reset for 1/20/2016 at 4:00 PM in Orlando Courtroom 4 B before Judge Paul G. Byron, U.S. District Court, 401 West Central Blvd., Orlando, Florida. *(previously noticed for 3:00 pm) (NBL) copies e-mailed (Entered: 12/22/2015)
12/23/2015	117	ORDER granting in part and denying in part 55 Plaintiff's Motion and Memorandum of Law to Exclude the Testimony of Defendant's Expert Eric Andrews; granting 56 Plaintiff's Motion and Memorandum of Law to Exclude the Testimony of Defendant's Expert on Damages. Signed by Judge Paul G. Byron on 12/23/2015. (RML) (Entered: 12/23/2015)
12/23/2015	118	ORDER granting in part and denying in part 54 Plaintiff's Motion and Memorandum for Summary Judgment as to Validity, Infringement, Enforceability and Unfair Competition; denying 78 Defendant CalAmp Corp.'s Motion for Summary Judgment and Memorandum of Law Regarding Invalidity and Noninfringement. Signed by Judge Paul G. Byron on 12/23/2015. (RML) (Entered: 12/23/2015)
01/05/2016	119	ORDER granting in part and denying in part 93 Plaintiff's Motion to Bifurcate Issues of Inequitable Conduct and Prosecution Laches. Signed by Judge Paul G. Byron on 1/5/2016. (RML) (Entered: 01/05/2016)
01/07/2016	120	ENDORSED ORDER directing the parties to file with the Court all full deposition transcripts which they intend to designate for use at trial. Transcripts must be filed by 5:00 P.M. on January 11, 2016. Signed by Judge Paul G. Byron on 1/7/2016. (MMW) (Entered: 01/07/2016)
01/13/2016	121	ORDER denying without prejudice as premature 95 Defendant CalAmp Corp.'s Motion That U.S. Patent Nos. '876, '885, '727, and '278 Are Not Entitled To Any Priority Date Earlier Than Their Actual Filing Dates. Signed by Judge Paul G. Byron on 1/13/2016. (RML) (Entered: 01/13/2016)
01/19/2016	122	ORDER granting in part and denying in part 94 Plaintiff Omega Patents, LLC's Motion in Limine. Signed by Judge Paul G. Byron on 1/19/2016. (RML) (Entered: 01/19/2016)
01/20/2016	123	Minute Entry (FINAL PRETRIAL CONFERENCE) Proceedings held before Judge Paul G. Byron on 1/20/2016. Court Reporter: Diane Peede (NBL) (Entered: 01/21/2016)
01/21/2016	124	FEBRIARY 2016 TRIAL CALENDAR for United States District Judge Paul G. Byron.(NBL) copies e-mailed (Entered: 01/21/2016)
01/22/2016	125	

		CIVIL PRETRIAL ORDER and ORDER denying 96 Defendant CalAmp Corp.'s Motion in Limine. Signed by Judge Paul G. Byron on 1/22/2016. (RML) (Entered: 01/22/2016)
02/01/2016	126	ORDER re: [90-5] [90-6] the parties' objections to deposition designations and counter-designations. Signed by Judge Paul G. Byron on 2/1/2016. (RML) (Entered: 02/01/2016)
02/12/2016	127	Exhibit List by Calamp Corp.. (Kauth, Joel) (Entered: 02/12/2016)
02/12/2016	128	Witness List by Calamp Corp.. (Kauth, Joel) (Entered: 02/12/2016)
02/15/2016	129	Exhibit List (Corrected) by Calamp Corp.. (Kauth, Joel) (Entered: 02/15/2016)
02/16/2016	130	Minute Entry (JURY TRIAL DAY 1) Proceedings held before Judge Paul G. Byron on 2/16/2016. Court Reporter: Koretta Stanford (NBL) (Entered: 02/17/2016)
02/17/2016	131	Minute Entry (JURY TRIAL DAY 2) Proceedings held before Judge Paul G. Byron on 2/17/2016. Court Reporter: Koretta Stanford (NBL) (Entered: 02/17/2016)
02/18/2016	132	Minute Entry (JURY TRIAL DAY 3) Proceedings held before Judge Paul G. Byron on 2/18/2016. Court Reporter: Koretta Stanford (NBL) (Entered: 02/18/2016)
02/19/2016	133	Minute Entry (JURY TRIAL DAY 4) Proceedings held before Judge Paul G. Byron on 2/19/2016. Court Reporter: Koretta Stanford (NBL) (Entered: 02/19/2016)
02/22/2016	134	Minute Entry (JURY TRIAL DAY 5) Proceedings held before Judge Paul G. Byron on 2/22/2016. Court Reporter: Koretta Stanford (NBL) (Entered: 02/23/2016)
02/22/2016	135	ORAL MOTION for judgment as a matter of law by Calamp Corp. (NBL) (Entered: 02/23/2016)
02/22/2016	136	ORAL ORDER denying for the reasons stated on the record 135 Defendant's Oral Motion for Judgment as a Matter of Law. Rendered in Open Court by Judge Paul G. Byron on 2/22/2016. (NBL) (Entered: 02/23/2016)
02/23/2016	137	Minute Entry (JURY TRIAL DAY 6) Proceedings held before Judge Paul G. Byron on 2/23/2016. Court Reporter: Koretta Stanford (NBL) (Entered: 02/23/2016)
02/23/2016	138	ORAL MOTION for judgment as a matter of law on the issues of Obviousness, Written Description and Infringement by Omega Patents, LLC. (NBL) (Entered: 02/23/2016)
02/23/2016	139	ORAL ORDER re: 138 Plaintiff's Oral Motion for Judgment as a Matter of Law. For the reasons stated on the record, the Court WITHHOLDS as to the issue of Obviousness, GRANTS as to Written Description and DENIES as to Infringement. Rendered in Open Court by Judge Paul G. Byron on 2/23/2016. (NBL) Modified on 2/23/2016 (NBL). (Entered: 02/23/2016)
02/23/2016	140	ORAL MOTION for judgment as a matter of law as to the issues of Obviousness, Willful Infringement and Notice Date by Calamp Corp. (NBL) (Entered: 02/23/2016)
02/23/2016	141	ORAL ORDER denying for the reasons stated on the record 140 Defendant's Oral Motion for Judgment as a Matter of Law as to Obviousness, Willful Infringement and Notice Date. Rendered in Open Court by Judge Paul G. Byron on 2/23/2016. (NBL) (Entered: 02/23/2016)
02/24/2016	142	Minute Entry(JURY TRIAL DAY 7) Proceedings held before Judge Paul G. Byron on 2/24/2016. Jury Verdict for the Plaintiff. Court Reporter: Koretta Stanford (NBL) (Entered: 02/24/2016)
02/24/2016	143	COURT'S INSTRUCTIONS to the Jury (NBL) (Entered: 02/24/2016)

02/24/2016	144	JURY VERDICT in favor of the Plaintiff.(NBL) (Entered: 02/24/2016)
02/25/2016	145	PLAINTIFF and JOINT Exhibit List (Trial) by Omega Patents, LLC. (NBL) (Additional attachment(s) added on 8/3/2017: # 1 Exhibit Joint 1, # 2 Exhibit Joint 3, # 3 Exhibit Joint 4, # 4 Exhibit Joint 5, # 5 Exhibit Joint 6 Part 1, # 6 Exhibit Joint 6 Part 2, # 7 Exhibit Joint 6 Part 3, # 8 Exhibit Joint 6 Part 4, # 9 Exhibit Joint 6 Part 5, # 10 Exhibit Joint 6 Part 6, # 11 Exhibit Joint 6 Part 7, # 12 Exhibit Joint 8, # 13 Exhibit Joint 9, # 14 Exhibit Joint 10, # 15 Exhibit Joint 11, # 16 Exhibit Joint 12, # 17 Exhibit Joint 13, # 18 Exhibit Joint 14, # 19 Exhibit 1, # 20 Exhibit 2, # 21 Exhibit 3, # 22 Exhibit 4, # 23 Exhibit 5, # 24 Exhibit 6, # 25 Exhibit 8, # 26 Exhibit 9, # 27 Exhibit 10, # 28 Exhibit 11, # 29 Exhibit 12, # 30 Exhibit 14, # 31 Exhibit 15, # 32 Exhibit 16, # 33 Exhibit 17, # 34 Exhibit 18, # 35 Exhibit 19, # 36 Exhibit 20, # 37 Exhibit 21, # 38 Exhibit 22, # 39 Exhibit 23, # 40 Exhibit 38, # 41 Exhibit 39, # 42 Exhibit 45, # 43 Exhibit 47, # 44 Exhibit 48, # 45 Exhibit 49, # 46 Exhibit 59, # 47 Exhibit 60, # 48 Exhibit 62, # 49 Exhibit 63, # 50 Exhibit 64, # 51 Exhibit 65, # 52 Exhibit 66, # 53 Exhibit 67, # 54 Exhibit 68, # 55 Exhibit 69, # 56 Exhibit 70, # 57 Exhibit 71, # 58 Exhibit 72, # 59 Exhibit 73, # 60 Exhibit 74, # 61 Exhibit 75, # 62 Exhibit 76, # 63 Exhibit 77, # 64 Exhibit 78, # 65 Exhibit 79, # 66 Exhibit 80, # 67 Exhibit 81, # 68 Exhibit 82, # 69 Exhibit 83, # 70 Exhibit 84, # 71 Exhibit 85, # 72 Exhibit 86, # 73 Exhibit 88, # 74 Exhibit 90, # 75 Exhibit 92, # 76 Exhibit 93, # 77 Exhibit 96, # 78 Exhibit 97, # 79 Exhibit 98, # 80 Exhibit 99, # 81 Exhibit 100, # 82 Exhibit 101, # 83 Exhibit 102, # 84 Exhibit 103, # 85 Exhibit 104, # 86 Exhibit 105, # 87 Exhibit 106, # 88 Exhibit 141, # 89 Exhibit 154, # 90 Exhibit 156, # 91 Exhibit 159, # 92 Exhibit 160, # 93 Exhibit 161, # 94 Exhibit 162, # 95 Exhibit 163, # 96 Exhibit 164) (AKJ). (Entered: 02/25/2016)
02/25/2016	146	DEFENDANT Exhibit List (Trial) by CalAmp Corp.(NBL) (Additional attachment(s) added on 8/3/2017: # 1 Exhibit 2, # 2 Exhibit 4, # 3 Exhibit 5, # 4 Exhibit 6, # 5 Exhibit 10, # 6 Exhibit 11, # 7 Exhibit 12, # 8 Exhibit 17, # 9 Exhibit 24, # 10 Exhibit 26, # 11 Exhibit 27, # 12 Exhibit 28, # 13 Exhibit 29, # 14 Exhibit 30, # 15 Exhibit 31, # 16 Exhibit 32, # 17 Exhibit 33, # 18 Exhibit 34, # 19 Exhibit 37, # 20 Exhibit 38 part 1, # 21 Exhibit 38 part 2, # 22 Exhibit 38 part 3, # 23 Exhibit 38 part 4, # 24 Exhibit 38 part 5, # 25 Exhibit 39, # 26 Exhibit 40, # 27 Exhibit 41, # 28 Exhibit 42, # 29 Exhibit 43, # 30 Exhibit 44, # 31 Exhibit 45, # 32 Exhibit 46, # 33 Exhibit 47 part 1, # 34 Exhibit 47 part 2, # 35 Exhibit 47 part 3, # 36 Exhibit 47 part 4, # 37 Exhibit 47 part 5, # 38 Exhibit 47 part 6, # 39 Exhibit 48, # 40 Exhibit 49, # 41 Exhibit 50, # 42 Exhibit 51, # 43 Exhibit 52, # 44 Exhibit 54, # 45 Exhibit 55, # 46 Exhibit 56, # 47 Errata 57, # 48 Exhibit 58, # 49 Exhibit 59, # 50 Exhibit 65, # 51 Exhibit 66, # 52 Exhibit 67, # 53 Exhibit 68, # 54 Exhibit 69, # 55 Exhibit 70, # 56 Exhibit 71, # 57 Exhibit 73, # 58 Exhibit 74, # 59 Exhibit 75, # 60 Exhibit 76, # 61 Exhibit 77, # 62 Exhibit 78, # 63 Exhibit 79, # 64 Exhibit 80, # 65 Exhibit 81) (AKJ). (Entered: 02/25/2016)
02/25/2016	147	COURT'S EXHIBIT LIST (Trial)(NBL) (Additional attachment(s) added on 8/1/2017: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 11, # 12 Exhibit 12, # 13 Exhibit 13, # 14 Exhibit 14, # 15 Exhibit 15) (AKJ). (Entered: 02/25/2016)
03/09/2016	148	MOTION and Memorandum for Entry of Final Judgment, Including Entitlement to Attorneys' Fees, Enhanced Damages, and Entry of a Permanent Injunction judgment by Omega Patents, LLC. (Gilchrist, Brian) Text modified on 3/10/2016 (RDO). (Entered: 03/09/2016)
03/09/2016	149	PROPOSED BILL OF COSTS by Omega Patents, LLC. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5) (Gilchrist, Brian) (Entered: 03/09/2016)
03/14/2016	150	

		UNOPPOSED MOTION for Leave to File a Motion in Excess of Twenty-Five Pages by Calamp Corp.. (Kauth, Joel) Text modified on 3/15/2016 (RDO). (Entered: 03/14/2016)
03/15/2016	151	ENDORSED ORDER granting in part 150 Motion for Leave to File Excess Pages. Defendant may file a post-trial motion with a page limit of 35 pages and Plaintiff may file a response with a page limit of 30 pages. Signed by Judge Paul G. Byron on 3/15/2016. (MMW) (Entered: 03/15/2016)
03/16/2016	152	MOTION and Memorandum for miscellaneous relief, specifically to Award Prejudgment Interest by Omega Patents, LLC. (Attachments: # 1 Exhibit A)(Gilchrist, Brian) Text modified on 3/17/2016 (RDO). (Entered: 03/16/2016)
03/18/2016	153	ENDORSED ORDER denying without prejudice for failure to comply with Local Rule 3.01(g) 152 Motion to Award Prejudgment Interest. Signed by Judge Paul G. Byron on 3/18/2016. (MMW) (Entered: 03/18/2016)
03/18/2016	154	MOTION for miscellaneous relief, specifically Renewed Motion to Award Prejudgment Interest by Omega Patents, LLC. (Attachments: # 1 Exhibit A)(Gilchrist, Brian) (Entered: 03/18/2016)
03/22/2016	155	MOTION for Extension of Time to File and Enlargement of the Page Limitation for its Response to 148 MOTION for Final Judgment, Including Entitlement to Attorneys' Fees, Enhanced Damages, and Entry of a Permanent Injunction judgment by Calamp Corp.. (Kauth, Joel) Motions referred to Magistrate Judge David A. Baker. Text modified on 3/23/2016 (RDO). (Entered: 03/22/2016)
03/24/2016	156	MOTION for Charles R. Halloran to withdraw as attorney by Calamp Corp.. (Halloran, Charles) Motions referred to Magistrate Judge David A. Baker. (Entered: 03/24/2016)
03/24/2016	157	MOTION for Eugene K. Chong to withdraw as attorney by Calamp Corp.. (Chong, Eugene) Motions referred to Magistrate Judge David A. Baker. (Entered: 03/24/2016)
03/25/2016	158	ENDORSED ORDER granting 156 Motion to Withdraw as Attorney Attorney Eugene Chong and Charles R. Halloran terminated; granting 157 Motion to Withdraw as Attorney. Signed by Magistrate Judge David A. Baker on 3/25/2016. (Baker, David) (Entered: 03/25/2016)
03/25/2016	159	RESPONSE in Opposition re 155 MOTION for Extension of Time to File Response/Reply as to 148 MOTION for Final Judgment, Including Entitlement to Attorneys' Fees, Enhanced Damages, and Entry of a Permanent Injunction judgment filed by Omega Patents, LLC. (Gilchrist, Brian) (Entered: 03/25/2016)
03/28/2016	160	MOTION for Stephanie P. Koh to appear pro hac vice by Calamp Corp.. (Wozniak, Carrie) Motions referred to Magistrate Judge David A. Baker. (Entered: 03/28/2016)
03/28/2016	161	MOTION for Thomas D. Rein to appear pro hac vice by Calamp Corp.. (Wozniak, Carrie) Motions referred to Magistrate Judge David A. Baker. (Entered: 03/28/2016)
03/28/2016	162	MOTION for Constantine L. Trela, Jr. to appear pro hac vice by Calamp Corp.. (Wozniak, Carrie) Motions referred to Magistrate Judge David A. Baker. (Entered: 03/28/2016)
03/28/2016		*** PRO HAC VICE FEES paid and Special Admission Attorney Certification Form filed by attorney Constantine L. Trela, appearing on behalf of Calamp Corp. (Filing fee $150 receipt number ORL052203.) Related document: 162 MOTION for Constantine L. Trela, Jr. to appear pro hac vice. (RDO) (Entered: 03/28/2016)
03/28/2016		*** PRO HAC VICE FEES paid and Special Admission Attorney Certification Form filed by attorney Thomas D. Rein, appearing on behalf of Calamp

		Corp. (Filing fee $150 receipt number ORL052202.) Related document: 161 MOTION for Thomas D. Rein to appear pro hac vice. (RDO) (Entered: 03/28/2016)
03/28/2016		* * * PRO HAC VICE FEES paid and Special Admission Attorney Certification Form filed by attorney Stephanie P. Koh, appearing on behalf of Calamp Corp. (Filing fee $150 receipt number ORL052205.) Related document: 160 MOTION for Stephanie P. Koh to appear pro hac vice. (RDO) (Entered: 03/28/2016)
03/28/2016	163	ENDORSED ORDER granting in part and denying in part 155 Defendant Calamp Corp.'s Motion for Extension of Time to File and Enlargement of the Page Limitation for its Response to Plaintiff's Motion for Entry of Judgment. Calamp shall file its response to Plaintiff's Motion and Memorandum for Entry of Final Judgment, Including Entitlement to Attorneys' Fees, Enhanced Damages, and Entry of a Permanent Injunction on or before April 11, 2016. The response shall not exceed thirty (30) pages in length. Signed by Judge Paul G. Byron on 3/28/2016. (RML) (Entered: 03/28/2016)
03/29/2016		Set/reset deadlines as to 148 MOTION for Final Judgment, Including Entitlement to Attorneys' Fees, Enhanced Damages, and Entry of a Permanent Injunction judgment . Responses due by 4/11/2016 (RDO) (Entered: 03/29/2016)
03/30/2016	164	ENDORSED ORDER granting 160 motion to appear pro hac vice; granting 161 motion to appear pro hac vice; granting 162 motion to appear pro hac vice. Provided, all counsel shall register for and use the electronic filing system as adopted by the Court. After this Order, the Clerk will no longer send copies of docket entries by U.S. Mail to counsel in this case. Appearance and participation by more than one attorney at any hearing or trial is subject to the discretion of the presiding judge. Signed by Magistrate Judge David A. Baker on 3/30/2016. (Baker, David) (Entered: 03/30/2016)
03/31/2016	165	MOTION for Bryan C. Mulder to appear pro hac vice by Calamp Corp.. (Wozniak, Carrie) Motions referred to Magistrate Judge David A. Baker. (Entered: 03/31/2016)
03/31/2016		* * * PRO HAC VICE FEES paid and Special Admission Attorney Certification Form filed by attorney Bryan C. Mulder, appearing on behalf of Calamp Corp. (Filing fee $150 receipt number ORL052334.) Related document: 165 MOTION for Bryan C. Mulder to appear pro hac vice. (RDO) (Entered: 03/31/2016)
04/04/2016	166	RESPONSE in Opposition re 154 MOTION for miscellaneous relief, specifically Renewed Motion to Award Prejudgment Interest filed by Calamp Corp.. (Kauth, Joel) (Entered: 04/04/2016)
04/05/2016	167	ENDORSED ORDER granting 165 motion to appear pro hac vice. Provided, all counsel shall register for and use the electronic filing system as adopted by the Court. After this Order, the Clerk will no longer send copies of docket entries by U.S. Mail to counsel in this case. Appearance and participation by more than one attorney at any hearing or trial is subject to the discretion of the presiding judge. Signed by Magistrate Judge David A. Baker on 4/5/2016. (Baker, David) (Entered: 04/05/2016)
04/08/2016	168	MOTION to Review 149 Bill of Costs (filed as Response in Opposition/Objection) filed by Calamp Corp. (Kauth, Joel) Modified on 4/25/2016 (LMM). Motions referred to Magistrate Judge David A. Baker. (Entered: 04/08/2016)
04/11/2016	169	RESPONSE in Opposition re 148 MOTION for Final Judgment, Including Entitlement to Attorneys' Fees, Enhanced Damages, and Entry of a Permanent Injunction judgment filed by Calamp Corp.. (Kauth, Joel) (Entered: 04/11/2016)
04/11/2016	170	

		APPENDIX re 169 Response in Opposition to Motion by Calamp Corp.. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 11, # 12 Exhibit 12, # 13 Exhibit 13, # 14 Exhibit 14, # 15 Exhibit 15, # 16 Exhibit 16, # 17 Exhibit 17, # 18 Exhibit 18, # 19 Exhibit 19, # 20 Exhibit 20, # 21 Exhibit 21, # 22 Exhibit 22, # 23 Exhibit 23, # 24 Exhibit 24)(Kauth, Joel) (Entered: 04/11/2016)
04/11/2016	171	MOTION for miscellaneous relief, specifically Request for Hearing re 148 Motion for Entry of Final Judgment by Calamp Corp.. (Kauth, Joel) Modified on 4/12/2016 (RDO). (Entered: 04/11/2016)
04/14/2016	172	ENDORSED ORDER granting 171 Defendant's Motion for Hearing Regarding Plaintiff's Motion for Entry of Final Judgment, Including Entitlement to Attorney's Fees, Enhanced Damages, and Entry of a Permanent Injunction. A separate Notice of Hearing will follow. Signed by Judge Paul G. Byron on 4/14/2016. (RML) (Entered: 04/14/2016)
04/14/2016	173	NOTICE OF MOTION HEARING: re 148 MOTION for Final Judgment, Including Entitlement to Attorneys' Fees, Enhanced Damages, and Entry of a Permanent Injunction judgment. Motion Hearing is set for Tuesday, 4/26/2016 at 2:00 PM in Orlando Courtroom 4 B before Judge Paul G. Byron, U.S. District Court, 401 West Central Blvd., Orlando, Florida. The Court has set aside (3) hours for this hearing. (NBL) copies e-mailed (Entered: 04/14/2016)
04/18/2016	174	Unopposed MOTION for miscellaneous relief, specifically Reschedule Hearing (Currently Scheduled for April 26, 2016) by Omega Patents, LLC. (Santurri, Ryan) (Entered: 04/18/2016)
04/19/2016	175	ENDORSED ORDER granting 174 Plaintiff's Unopposed Motion to Reschedule Hearing. A separate Notice of Hearing will follow. Signed by Judge Paul G. Byron on 4/19/2016. (RML) (Entered: 04/19/2016)
04/19/2016	176	NOTICE RESCHEDULING MOTION HEARING re 148 MOTION for Final Judgment, Including Entitlement to Attorneys' Fees, Enhanced Damages, and Entry of a Permanent Injunction judgment. Motion Hearing is rescheduled for 5/2/2016 at 1:30 PM in Orlando Courtroom 4 B before Judge Paul G. Byron, U.S. District Court, 401 West Central Blvd., Orlando, Florida. The Court has set aside (3) hours for this hearing. *(previously set for 4/26/16)(NBL) copies e-mailed (Entered: 04/19/2016)
04/22/2016	177	RESPONSE in opposition to 168 Motion to Review Bill of Costs filed by Omega Patents, LLC. (Attachments: # 1 Exhibit A, # 2 Exhibit B)(Santurri, Ryan) Modified on 4/25/2016 (LMM). Modified on 4/25/2016 (LMM). (Entered: 04/22/2016)
04/25/2016	178	TRANSCRIPT of Civil Jury Trial - Day 1 held on 2/16/16 before Judge Paul G. Byron. Court Reporter/Transcriber Koretta Stanford, Telephone number 407-872-1715 or skoretta@bellsouth.net. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or purchased through the Court Reporter. Redaction Request due 5/16/2016, Redacted Transcript Deadline set for 5/26/2016, Release of Transcript Restriction set for 7/25/2016. (KS) (Entered: 04/25/2016)
04/25/2016	179	TRANSCRIPT of Civil Jury Trial - Day 2 held on 02/17/16 before Judge Paul G. Byron. Court Reporter/Transcriber Koretta Stanford, Telephone number 407-872-1715. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or purchased through the Court Reporter. Redaction Request due 5/16/2016, Redacted Transcript Deadline set for 5/26/2016, Release of Transcript Restriction set for 7/25/2016. (KS) (Entered: 04/25/2016)

04/25/2016	180	TRANSCRIPT of Civil Jury Trial - Day 3 held on 02/18/16 before Judge Paul G. Byron. Court Reporter/Transcriber Koretta Stanford,Telephone number 407-872-1715. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or purchased through the Court Reporter. Redaction Request due 5/16/2016, Redacted Transcript Deadline set for 5/26/2016, Release of Transcript Restriction set for 7/25/2016. (KS) (Entered: 04/25/2016)
04/25/2016	181	TRANSCRIPT of Civil Jury Trial - Day 4 held on 2/19/16 before Judge Paul G. Byron. Court Reporter/Transcriber Koretta Stanford,Telephone number 407-872-1715. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or purchased through the Court Reporter. Redaction Request due 5/16/2016, Redacted Transcript Deadline set for 5/26/2016, Release of Transcript Restriction set for 7/25/2016. (KS) (Entered: 04/25/2016)
04/25/2016	182	TRANSCRIPT of Civil Jury Trial - Day 5 held on 2/22/16 before Judge Paul G. Byron. Court Reporter/Transcriber Koretta Stanford, Telephone number 407-872-1715. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or purchased through the Court Reporter. Redaction Request due 5/16/2016, Redacted Transcript Deadline set for 5/26/2016, Release of Transcript Restriction set for 7/25/2016. (KS) (Entered: 04/25/2016)
04/25/2016	183	TRANSCRIPT of Civil Jury Trial - Day 6 held on 2/23/16 before Judge Paul G. Byron. Court Reporter/Transcriber Koretta Stanford,Telephone number 407-872-1715. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or purchased through the Court Reporter. Redaction Request due 5/16/2016, Redacted Transcript Deadline set for 5/26/2016, Release of Transcript Restriction set for 7/25/2016. (KS) (Entered: 04/25/2016)
04/25/2016	184	TRANSCRIPT of Civil Jury Trial - Day 7 held on 2/24/16 before Judge Paul G. Byron. Court Reporter/Transcriber Koretta Stanford,Telephone number 407-872-1715. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or purchased through the Court Reporter. Redaction Request due 5/16/2016, Redacted Transcript Deadline set for 5/26/2016, Release of Transcript Restriction set for 7/25/2016. (KS) (Entered: 04/25/2016)
04/25/2016	185	NOTICE to counsel of filing of OFFICIAL TRANSCRIPT, Doc 178 through 184. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days. Any party needing a copy of the transcript to review for redaction purposes may purchase a copy from the court reporter or view the document at the clerk's office public terminal. Court Reporter: Koretta Stanford. (KS) (Entered: 04/25/2016)
04/26/2016	186	ORDER denying without prejudice 168 Motion to review bill of costs. Signed by Magistrate Judge David A. Baker on 4/26/2016. (SWT) (Entered: 04/26/2016)
04/28/2016	187	NOTICE by Omega Patents, LLC of Filing Declarations (Attachments: # 1 Exhibit Declaration of Robert Leale II, # 2 Exhibit Declaration of Thomas Malone)(Santurri, Ryan) (Entered: 04/28/2016)

04/29/2016	188	NOTICE by Calamp Corp. re 187 Notice (Other) of Filing Responsive Declarations (Attachments: # 1 Exhibit Declaration of Wade Files, # 2 Exhibit Declaration of Wade Huber)(Kauth, Joel) (Entered: 04/29/2016)
05/02/2016	189	Minute Entry (MOTION HEARING) Proceedings held before Judge Paul G. Byron on 5/2/2016 re 148 MOTION for Final Judgment, Including Entitlement to Attorneys' Fees, Enhanced Damages, and Entry of a Permanent Injunction judgment filed by Omega Patents, LLC. Written Order to issue.Court Reporter: Koretta Stanford (NBL) (Entered: 05/03/2016)
05/12/2016	190	TRANSCRIPT of the final pretrial conference held on 1/20/16 before Judge Paul G. Byron. Court Reporter/Transcriber Diane Peede, FlaDiane@att.net, telephone number 407-615-0305. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or purchased through the Court Reporter.. Redaction Request due 6/2/2016, Redacted Transcript Deadline set for 6/13/2016, Release of Transcript Restriction set for 8/10/2016. (DP) (Entered: 05/12/2016)
05/12/2016	191	NOTICE to counsel of filing of OFFICIAL TRANSCRIPT (Doc. No. 190). The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days. Any party needing a copy of the transcript to review for redaction purposes may purchase a copy from the court reporter or view the document at the clerk's office public terminal. Court Reporter: Diane Peede. (DP) (Entered: 05/12/2016)
05/17/2016	192	NOTICE of supplemental authority re 169 Response in Opposition to 148 Motion for entry of Judgment by Calamp Corp.. (Attachments: # 1 Exhibit 1)(Kauth, Joel) Modified on 5/18/2016 (RDO). (Entered: 05/17/2016)
06/06/2016	193	NOTICE of Grant of Reexamination of '885 Patent re 169 Response in Opposition to Motion by Calamp Corp.. (Attachments: # 1 Exhibit 1) (Kauth, Joel) Text modified on 6/7/2016 (RDO). (Entered: 06/06/2016)
06/13/2016	194	NOTICE of supplemental authority re 148 MOTION for Final Judgment, Including Entitlement to Attorneys' Fees, Enhanced Damages, and Entry of a Permanent Injunction judgment by Omega Patents, LLC. (Attachments: # 1 Exhibit A)(Gilchrist, Brian) (Entered: 06/13/2016)
06/14/2016	195	RESPONSE re 194 Notice of filing supplemental authority by Calamp Corp.. (Wozniak, Carrie) (Entered: 06/14/2016)
06/22/2016	196	TRANSCRIPT of Motion Hearing held on 05/02/16 before Judge Paul G. Byron. Court Reporter/Transcriber Koretta Stanford, Telephone number 407-872-1715 or skoretta@bellsouth.net. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or purchased through the Court Reporter. Redaction Request due 7/13/2016, Redacted Transcript Deadline set for 7/25/2016, Release of Transcript Restriction set for 9/20/2016. (KS) (Entered: 06/22/2016)
06/22/2016	197	NOTICE to counsel of filing of OFFICIAL TRANSCRIPT, Doc. 196. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days. Any party needing a copy of the transcript to review for redaction purposes may purchase a copy from the court reporter or view the document at the clerk's office public terminal. Court Reporter: Koretta Stanford. (KS) (Entered: 06/22/2016)
07/19/2016	198	

		RESPONSE re 192 Notice of filing supplemental authority filed by Omega Patents, LLC. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3) (Gilchrist, Brian) (Entered: 07/19/2016)
07/22/2016	199	REPLY to 198 Response filed by Calamp Corp.. (Attachments: # 1 Exhibit 1, Beckert, # 2 Exhibit 2, Suman, # 3 Exhibit 3, J1850, # 4 Exhibit 4, J2178, # 5 Exhibit 5, 876 Claim Chart)(Mulder, Bryan) Text modified on 7/25/2016 (RDO). (Entered: 07/22/2016)
08/30/2016	200	NOTICE of supplemental authority re 169 Response in Opposition to Motion by Calamp Corp.. (Wozniak, Carrie) (Entered: 08/30/2016)
08/30/2016	201	NOTICE of supplemental authority re 169 Response in Opposition to Motion by Calamp Corp.. (Attachments: # 1 Exhibit 1)(Wozniak, Carrie) (Entered: 08/30/2016)
09/19/2016	202	NOTICE of supplemental authority re 169 Response in Opposition to Motion for Entry of Final Judgment by Calamp Corp.. (Attachments: # 1 Exhibit 1)(Wozniak, Carrie) (Entered: 09/19/2016)
10/03/2016	203	Case Reassigned to Magistrate Judge Daniel C. Irick. New case number: 6:13-cv-1950-ORL-40-DCI. Magistrate Judge David A. Baker no longer assigned to the case. (EJS) (Entered: 10/03/2016)
10/21/2016	204	ENDORSED ORDER: The Court has taken the various notices of supplemental authority and related declarations and exhibits under advisement and is currently drafting its opinion. Prior to submitting any additional material relating to the post trial motions, the proponent SHALL seek leave of Court. Signed by Judge Paul G. Byron on 10/21/2016. (MMW) (Entered: 10/21/2016)
03/20/2017	205	MOTION for miscellaneous relief, specifically Motion for Status Conference by Omega Patents, LLC. (Gilchrist, Brian) (Entered: 03/20/2017)
04/05/2017	206	ORDER granting in part and denying in part 148 Motion for Entry of Final Judgment, Including Entitlement to Attorneys' Fees, Enhanced Damages, and Entry of a Permanent Injunction. The Motion is granted as to entry of final judgment, attorneys' fees, and enhanced damages. The Motion is denied as to the request for entry of a permanent injunction. Plaintiff's 154 Renewed Motion to Award Prejudgment Interest is also granted. Signed by Judge Paul G. Byron on 4/5/2017. (ALJ) (RDO). (Entered: 04/05/2017)
04/05/2017	207	ENDORSED ORDER denying as moot 205 Motion for Status Conference by Omega Patents, LLC. The Motion is rendered moot by the Court's Order entered on April 5, 2017 206 . Signed by Judge Paul G. Byron on 4/5/2017. (ALJ) (Entered: 04/05/2017)
04/19/2017	208	NOTICE by Omega Patents, LLC of Firm Name Change (Gilchrist, Brian) (Entered: 04/19/2017)
04/19/2017	209	STIPULATION Regarding Attorneys' Fees and Costs by both parties. (Gilchrist, Brian) Modified on 4/20/2017 (RDO). (Entered: 04/19/2017)
04/19/2017	210	STIPULATION for Entry of Proposed Final Judgment by both parties. (Attachments: # 1 Text of Proposed Order)(Gilchrist, Brian) Modified on 4/20/2017 (RDO). (Entered: 04/19/2017)
04/24/2017	211	FINAL JUDGMENT. Signed by Judge Paul G. Byron on 4/24/2017. (ALJ) (Entered: 04/24/2017)
04/24/2017	212	ENDORSED ORDER directing the Clerk of Court to close the file. Signed by Judge Paul G. Byron on 4/24/2017. (ALJ) (Entered: 04/24/2017)
04/25/2017	213	Patent Report sent to Alexandria, VA. (Attachments: # 1 Judgment, # 2 Complaint) (RDO) (Entered: 04/25/2017)
05/08/2017	214	MOTION to Stay Execution of 211 Judgment pending post-trial motions and for approval of supersedeas bond by Calamp Corp.. (Attachments: #

1 Exhibit A, # 2 Exhibit B)(Wozniak, Carrie) Modified on 5/9/2017 (RDO). (Entered: 05/08/2017)

05/12/2017 215 RESPONSE in Opposition re 214 MOTION to Stay Execution of 211 Judgment pending post-trial motions and for approval of supersedeas bond filed by Omega Patents, LLC. (Gilchrist, Brian) (Entered: 05/12/2017)

05/22/2017 216 RENEWED MOTION for judgment as a matter of law , MOTION for New Trial by Calamp Corp.. (Attachments: # 1 Exhibit 1, JE1 - US Patent No 6,346,876, # 2 Exhibit 2, JE3 - US Patent No 6,756,885, # 3 Exhibit 3, PTX104 (excerpts), # 4 Exhibit 4, JE5 - US Patent No 8,032,278, # 5 Exhibit 5, JE4 - US Patent No 7,671,727, # 6 Exhibit 6, 8-18-14 Hergesheimer Tr (excerpts), # 7 Exhibit 7, Eiberger Tr (excerpts), # 8 Exhibit 8, PTX161, # 9 Exhibit 9, 4-22-15 Hergesheimer Tr (excerpts), # 10 Exhibit 10, 885 reexam office action, # 11 Exhibit 11, PTX38, # 12 Exhibit 12, PTX47, # 13 Exhibit 13, PTX14, # 14 Exhibit 14, CalAmp 2016 10K (excerpts), # 15 Exhibit 15, DTX73 (excerpts), # 16 Exhibit 16, DTX74 (excerpts), # 17 Exhibit 17, DTX75 (excerpts), # 18 Exhibit 18, 278 reexam office action, # 19 Exhibit 19, 727 reexam office action, # 20 Exhibit 20, 876 reexam office action, # 21 Exhibit 21, 727 reexam 5-13-17 response, # 22 Exhibit 22, Chen Tr (excerpts), # 23 Exhibit 23 - McDuff Report (excerpts))(Mulder, Bryan) Modified on 5/23/2017 (RDO). (Entered: 05/22/2017)

05/23/2017 217 CERTIFICATE of compliance with Rule 3.01(g) re 216 MOTION for judgment as a matter of law MOTION for New Trial by Calamp Corp.. (Wozniak, Carrie) Modified on 5/24/2017 (RDO). (Entered: 05/23/2017)

05/23/2017 218 STIPULATION Regarding Supplemental and On-going Royalties by both parties. (Attachments: # 1 Text of Proposed Order)(Gilchrist, Brian) Modified on 5/24/2017 (RDO). (Entered: 05/23/2017)

05/31/2017 219 Unopposed MOTION for Extension of Time until 7/5/2017 to File Response/Reply as to 216 MOTION for judgment as a matter of law MOTION for New Trial by Omega Patents, LLC. (Gilchrist, Brian) Motions referred to Magistrate Judge Daniel C. Irick. Text modified on 6/1/2017 (RDO). (Entered: 05/31/2017)

06/01/2017 220 ENDORSED ORDER granting 219 Unopposed Motion for Extension of Time to Respond to Defendant's Renewed Motion for Judgment as a Matter of Law and for New Trial. Plaintiff's response shall be due on or before July 5, 2017. Additional extensions should not be sought absent extraordinary good cause. Signed by Magistrate Judge Daniel C. Irick on 6/1/2017. (Irick, Daniel) (Entered: 06/01/2017)

06/01/2017 221 STIPULATION to Stay Execution of 211 Final Judgment Secured by Supersedeas Bond by both parties. (Attachments: # 1 Exhibit, # 2 Text of Proposed Order)(Kauth, Joel) Modified on 6/2/2017 (RDO). (Entered: 06/01/2017)

06/02/2017 Set/reset deadlines as to 216 MOTION for judgment as a matter of law MOTION for New Trial . Responses due by 7/5/2017 (RDO) (Entered: 06/02/2017)

06/02/2017 222 MOTION to Vacate 211 Final Judgment and Dismiss the Case for Lack of Venue by Calamp Corp.. (Attachments: # 1 Declaration of Garo Sarkissian)(Mulder, Bryan) Text modified on 6/5/2017 (RDO). (Entered: 06/02/2017)

06/02/2017 223 ORDER re 221 Stipulation filed by Calamp Corp. The execution of the Final Judgment, and any Amended Judgment, and any proceedings to enforce either, are hereby STAYED pending disposition of post-trial motions, and any subsequent appeal. CalAmp SHALL post a supersedeas bond in the amount of $17,000,000.00 within 21 days of this order. The terms of the Stipulation to Stay Execution of Judgment (Doc. 221) are INCORPORATED and made part of this order. Hartford Fire Insurance Company is approved

		as the surety for such bond. CalAmp's currently pending Motion for Stay (Doc. 214) is DENIED AS MOOT. Signed by Judge Paul G. Byron on 6/2/2017. (MMW) (Entered: 06/02/2017)
06/12/2017	224	NOTICE of Filing Supersedeas Bond by Calamp Corp. re 223 Order (Attachments: # 1 Exhibit A)(Wozniak, Carrie) Text modified on 6/13/2017 (RDO). (Entered: 06/12/2017)
06/16/2017	225	RESPONSE in Opposition re 222 MOTION to Vacate 211 Final Judgment and Dismiss the Case for Lack of Venue filed by Omega Patents, LLC. (Santurri, Ryan) (Entered: 06/16/2017)
07/05/2017	226	RESPONSE in Opposition re 216 MOTION for judgment as a matter of law MOTION for New Trial filed by Omega Patents, LLC. (Gilchrist, Brian) (Entered: 07/05/2017)
07/19/2017	227	AMENDED FINAL JUDGMENT. Signed by Judge Paul G. Byron on 7/19/2017. (MMW) Text modified on 7/20/2017 (RDO). (Entered: 07/19/2017)
07/26/2017	228	Supplemental MOTION for judgment as a matter of law , for a new trial, and to vacate the judgment by Calamp Corp.. (Mulder, Bryan) (Entered: 07/26/2017)
08/01/2017	229	RESPONSE in Opposition re 228 Supplemental MOTION for judgment as a matter of law , for a new trial, and to vacate the judgment filed by Omega Patents, LLC. (Gilchrist, Brian) (Entered: 08/01/2017)
09/22/2017	230	ORDER denying 222 Motion to Vacate the Judgment and Dismiss for Lack of Venue. Signed by Judge Paul G. Byron on 9/22/2017. (ALJ) (Entered: 09/22/2017)
11/14/2017	231	ORDER denying 216 CalAmp's Renewed Motion for Judgment as a Matter of Law and for a New Trial; denying 228 CalAmp's Supplemental Renewed Motion for Judgment as a Matter of Law, for a New Trial, and to Vacate the Judgment. Signed by Judge Paul G. Byron on 11/14/2017. (JRJ) (Entered: 11/14/2017)
12/11/2017	232	NOTICE OF APPEAL as to 227 Order, 211 Order, 206 Order on motion for judgment Order on Motion for Miscellaneous Relief, 230 Order on Motion to Vacate, 50 Order, 118 Order on motion for summary judgment, 125 Order on Motion in Limine, 117 Order on Motion for Miscellaneous Relief, 122 Order on Motion in Limine, 231 Order on Motion for Judgment as a Matter of Law Order on Motion for New Trial by Calamp Corp. Filing fee not paid. (Mulder, Bryan) (Entered: 12/11/2017)
12/12/2017	233	TRANSMITTAL of initial appeal package to USCA for the Federal Circuit by email to appeal@cafc.uscourts.gov consisting of copies of notice of appeal, docket sheet, order/judgment being appealed, and motion, if applicable to USCA re 232 Notice of appeal. Transcript information form forwarded to pro se litigants and available to counsel at www.flmd.uscourts.gov under Forms and Publications/General. (JEV) (Entered: 12/12/2017)
12/14/2017		USCA appeal fees received $ 505 receipt number Orl-069431 re 232 Notice of appeal filed by Calamp Corp. (JEV) (Entered: 12/14/2017)
12/14/2017		TRANSMITTAL to USCA for the Federal Circuit by email to appeal@cafc.uscourts.gov forwarding notification of fee payment received re 232 Notice of appeal. (JEV) (Entered: 12/14/2017)
12/21/2017	234	TRANSCRIPT information form filed by Calamp Corp. for proceedings held on 11/24/14 before Judge Paul G. Byron re 232 Notice of appeal. USCA number: 18-1309. (Wozniak, Carrie) (Entered: 12/21/2017)
01/05/2018	235	COURT REPORTER ACKNOWLEDGMENT by Koretta Stanford re 232 Notice of appeal Estimated transcript filing date: 02/05/18. USCA number: 18-1309. (KS) (Entered: 01/05/2018)
02/12/2018	236	TRANSCRIPT of Claims Construction Hearing held on 11/24/14 before Judge Paul G. Byron re 232 Notice of appeal. Court Reporter/Transcriber

		Koretta Stanford, Telephone number stanarm2014@gmail.com. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date, it may be obtained through PACER or purchased through the Court Reporter. Redaction Request due 3/5/2018, Redacted Transcript Deadline set for 3/15/2018, Release of Transcript Restriction set for 5/14/2018. (KS) (Entered: 02/12/2018)
02/12/2018	237	NOTICE to counsel of filing of OFFICIAL TRANSCRIPT, Doc. 236. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days. Any party needing a copy of the transcript to review for redaction purposes may purchase a copy from the court reporter or view the document at the clerk's office public terminal. Court Reporter: Koretta Stanford. (KS) (Entered: 02/12/2018)
02/12/2018	238	NOTIFICATION that transcript has been filed by Koretta Stanford re: 232 Notice of appeal. USCA number: 18-1309. (KS) (Entered: 02/12/2018)

Copyright © 2018 LexisNexis CourtLink, Inc. All rights reserved.
*** THIS DATA IS FOR INFORMATIONAL PURPOSES ONLY ***

This case was appealed from
Florida Middle: 6:13-cv-01950-PGB-DCI

U.S. Circuit Court of Appeals

US Circuit Court of Appeals - Federal Circuit

18-1309

Omega Patents, LLC v. CalAmp Corp.

This case was retrieved from the court on Wednesday, November 28, 2018

Header

Case Number: 18-1309
Date Filed: 12/19/2017
Date Full Case Retrieved: 11/28/2018
NOS Description: (999) 830: Patent Infringement (Fed. Question); Appeal

[Summary] [Associated Cases] [Participants] [Proceedings] [Pending Motion] [Brief] [Rehearings] [History] [Additional Case]

Summary

No Information is Available for this case

Associated Cases

No Information is Available for this case

Participants

Litigant	Attorney
Omega Patents, Llc Plaintiff - Appellee	Brian R. Gilchrist, Esq. [LD NTC Retained] Allen, Dyer, Doppelt & Gilchrist, PA 255 South Orange Avenue Orlando, FL 32801 407-841-2330 407-841-2343 bgilchrist(at)allendyer.com Ryan Santurri, Attorney [COR NTC Retained] Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A. 255 South Orange Avenue Orlando, FL 32801 407-841-2330 407-841-2343 rsanturri(at)allendyer.com
Calamp Corp. Defendant - Appellant	Constantine L. Trela Jr., Esq., - [LD NTC Retained] Sidley Austin LLP Bank One Plaza 1 South Dearborn Street Chicago, IL 60603 312-853-7000 912-853-7036 ctrela(at)sidley.com

Stephanie P. Koh, Esq.
[COR NTC Retained]
Sidley Austin LLP
Bank One Plaza
1 South Dearborn Street
Chicago, IL 60603
312-853-7000
312-853-7036
skoh(at)sidley.com

Bryan C. Mulder, Esq.
[COR NTC Retained]
Sidley Austin LLP
Bank One Plaza
1 South Dearborn Street
Chicago, IL 60603
bmulder(at)sidley.com

Thomas D. Rein, Esq., Attorney
[COR NTC Retained]
Sidley Austin LLP
Bank One Plaza
1 South Dearborn Street
Chicago, IL 60603
312-853-7000
312-853-7036
trein(at)sidley.com

Proceedings

Date	Details
12/19/2017	Appeal docketed. Received: 12/12/2017. [483860] Fee/IFP due on 01/02/2018. Entry of Appearance due 01/02/2018. Certificate of Interest is due on 01/02/2018. Docketing Statement due 01/02/2018. Appellant/Petitioner's brief is due 02/20/2018. [FMS]
12/21/2017	Filing fee paid in the United States District Court for the Middle District of Florida on 12/14/2017. [484638] [FMS]
12/21/2017	Entry of appearance for Brian R. Gilchrist as principal counsel for Appellee Omega Patents, LLC. Service: 12/21/2017 by email. [484837] [Brian Gilchrist]
12/21/2017	Certificate of Interest for the Appellee Omega Patents, LLC. Service: 12/21/2017 by email. [484840] [Brian Gilchrist]
12/21/2017	Entry of appearance for Ryan T. Sanfurri as of counsel for Appellee Omega Patents, LLC. Service: 12/21/2017 by email. [484844] [Ryan Santurri]
12/22/2017	NOTICE OF DEFICIENCY: The certificate of interest Document No. [4] filed by Appellee Omega Patents, LLC in 18-1309 is submitted on an outdated form and not completely filled out and therefore cannot be accepted for filing at this time. You are being afforded the opportunity to correct the deficiency. At the discretion of the court, the corrected document may be accepted for filing if received before midnight (EST) on the date of this notice. [485099] [FMS]
12/22/2017	Corrected Certificate of Interest for the Appellee Omega Patents, LLC. Service: 12/22/2017 by email. [485215] [Brian Gilchrist]
01/02/2018	Entry of appearance for Bryan C. Mulder as of counsel for Appellant CalAmp Corp.. Service: 01/02/2018 by email. [486801] [Bryan Mulder]
01/02/2018	Entry of appearance for Stephanie P. Koh as of counsel for Appellant CalAmp Corp.. Service: 01/02/2018 by email. [486805] [Stephanie Koh]
01/02/2018	Entry of appearance for Thomas D. Rein as of counsel for Appellant CalAmp Corp.. Service: 01/02/2018 by email. [486807] [Thomas Rein]
01/02/2018	Entry of appearance for Constantine L. Trela, Jr. as of counsel for Appellant CalAmp Corp.. Service: 01/02/2018 by email. [486808] [Constantine Trela]
01/02/2018	Certificate of Interest for the Appellant CalAmp Corp.. Service: 01/02/2018 by email. [486809] [Constantine Trela]
01/02/2018	Docketing Statement for the Appellant CalAmp Corp.. Service: 01/02/2018 by email. [486811] [Constantine Trela]
01/03/2018	Docketing Statement for the Appellee Omega Patents, LLC. Service: 01/03/2018 by email. [487173] [Brian Gilchrist]
01/24/2018	MOTION of Appellant CalAmp Corp. to extend the time to 04/20/2018 at 11:59 pm to file the appellant/petitioner's principal brief. Any response is due within 10 days of service [Consent: unopposed]. Service: 01/24/2018 by email. [492451] [Constantine Trela]
01/25/2018	**TEXT ONLY** ORDER granting motion to extend time to file appellant's principal brief filed by Appellant CalAmp Corp. The brief is due 04/20/2018. Service as of this date by Clerk of Court. This order has been issued without an attached document and is official and binding. [492534] [FMS]
01/25/2018	CLERK'S OFFICE QUALITY CONTROL MESSAGE: re: motion to extend time to file appellant/petitioner principal brief Docket No. , ERROR: Appellant's motion did not contain the required certificate of compliance with the word count. CORRECTION: Pursuant to

FRAP 32(g)(1), motions must contain a certificate of compliance with the word count. Please ensure future motions include the certificate of compliance.. THIS MESSAGE IS FOR INFORMATIONAL PURPOSES ONLY. [492535] [FMS]

04/20/2018 TENDERED from Appellant CalAmp Corp.. Title: OPENING BRIEF. Service: 04/20/2018 by email. [515783] [18-1309] "This brief has been rejected. See Doc No. [Constantine Trela]

04/24/2018 NOTICE OF REJECTION: The brief of Appellant CalAmp Corp., Opening Brief , is not in compliance with the rules of this court and is therefore rejected for filing. Corrected Brief is due 05/08/2018. Appellee Omega Patents, LLC brief is due 05/30/2018. Service as of this date by the Clerk of Court. [516274] [JBR]

04/25/2018 TENDERED from Appellant CalAmp Corp.. Title: CORRECTED OPENING BRIEF. Service: 04/25/2018 by email. [516831] [18-1309] [Constantine Trela]

04/25/2018 CORRECTED BRIEF FILED for Appellant CalAmp Corp. . Number of Pages: 63. Service: 04/25/2018 by email. The paper copies of the brief should be received by the court on or before 05/04/2018. [517299] [JBR]

04/30/2018 6 paper copies of the Corrected Opening Brief received from Appellant CalAmp Corp. [517709] [JCP]

05/30/2018 TENDERED from Appellee Omega Patents, LLC. Title: RESPONSE BRIEF. Service: 05/30/2018 by email. [525651] [18-1309] [Brian Gilchrist]

05/30/2018 BRIEF FILED for Appellee Omega Patents, LLC . Number of Pages: 60. Service: 05/30/2018 by email. The paper copies of the brief should be received by the court on or before 06/12/2018. The reply brief is due 06/13/2018. [527008] [CFT]

06/01/2018 MOTION of Appellant CalAmp Corp. to extend the time to 07/03/2018 to file the Reply Brief. [Consent: unopposed]. Service: 06/01/2018 by email. [526313] [18-1309] [Constantine Trela]

06/05/2018 **TEXT ONLY** ORDER granting motion to extend time to file brief filed by Appellant CalAmp Corp. The reply brief is due 07/03/2018. Service as of this date by the Clerk of Court. This order has been issued without an attached document and is official and binding. [527012] [CFT]

06/11/2018 6 paper copies of the Opening Response Brief received from Appellee Omega Patents, LLC. [528408] [CJF]

07/02/2018 TENDERED from Appellant CalAmp Corp.. Title: REPLY BRIEF. Service: 07/02/2018 by email. [533227] [18-1309] [Constantine Trela]

07/02/2018 REPLY BRIEF FILED for Appellant CalAmp Corp. . Number of Pages: 33. Service: 07/02/2018 by email. The paper copies of the brief should be received by the court on or before 07/11/2018. Appendix is due 07/09/2018. [533480] [JBR]

07/03/2018 Joint Statement of Compliance with Fed. Cir. R. 33 for Appellant CalAmp Corp.. Service: 07/03/2018 by email. [533467] [18-1309] [Constantine Trela]

07/05/2018 6 paper copies of the Reply Brief received from Appellant CalAmp Corp.. [533722] [CJF]

07/09/2018 TENDERED from Appellant CalAmp Corp.. Title: JOINT APPENDIX. Service: 07/09/2018 by email. [534405] [18-1309] [Constantine Trela]

07/09/2018 APPENDIX FILED (4 vols.) for CalAmp Corp. . Number of Pages: 2131. Service: 07/09/2018 by email. The paper copies of the brief should be received by the court on or before 07/18/2018. [535170] [SMJ]

07/11/2018 Pursuant to Practice Note 34, counsel should advise the clerk of court of scheduling conflicts for the next three court weeks, or thereafter. When filing the notice of conflicts, counsel should docket the Notice Regarding Conflicts with Argument Dates event, which is found in the Calendar event category.. [535173] [SMJ]

07/12/2018 6 paper copies of the Joint Appendix Brief (Vol. I - IV) received from Appellant CalAmp Corp.. [535445] [CJF]

07/13/2018 Notice from Appellee Omega Patents, LLC regarding conflicts with oral argument (October 4 and October 5, 2018). Service: 07/13/2018 by email. [535872] [18-1309] [Ryan Santurri]

07/16/2018 Notice from Appellant CalAmp Corp. regarding conflicts with oral argument (not available for oral argument on December 5 or 6, 2018.). Service: 07/16/2018 by email. [536018] [18-1309] [Constantine Trela]

11/02/2018 Citation of Supplemental Authority pursuant to Fed. R. App. P. 28(j) for Appellant CalAmp Corp.. Service: 11/02/2018 by email. [562151] [18-1309] [Constantine Trela]

11/19/2018 NOTICE OF ORAL ARGUMENT. Panel: 19011. Case scheduled Jan 09, 2019 10:00 a.m. at the United States Court of Appeals for the Federal Circuit (Howard T. Markey National Courts Building, 717 Madison Place, NW Washington, DC 20439), Courtroom 203. Response to Notice of Oral Argument due: 12/17/2018. Please review the attached Notice. The response to notice of oral argument form can be found here. The Oral Argument Guide can be found here. [566358] [JAB]

11/21/2018 Response to notice of oral argument from the Appellant CalAmp Corp.. [567091] [18-1309] [Constantine Trela]

11/21/2018 Response to notice of oral argument from the Appellee Omega Patents, LLC. [567171] [18-1309] [Brian Gilchrist]

Pending Motion

No Information is Available for this case

Brief

No Information is Available for this case

Rehearings

No Information is Available for this case

History

No Information is Available for this case

Additional Case

Additional Case Information

Civil Private

Appeal from: United States District Court for the Middle District of Florida

District: 113A Division: 6 CaseNumber: 6:13-cv-01950-PGB-DCI DateFiled: 12/20/2013

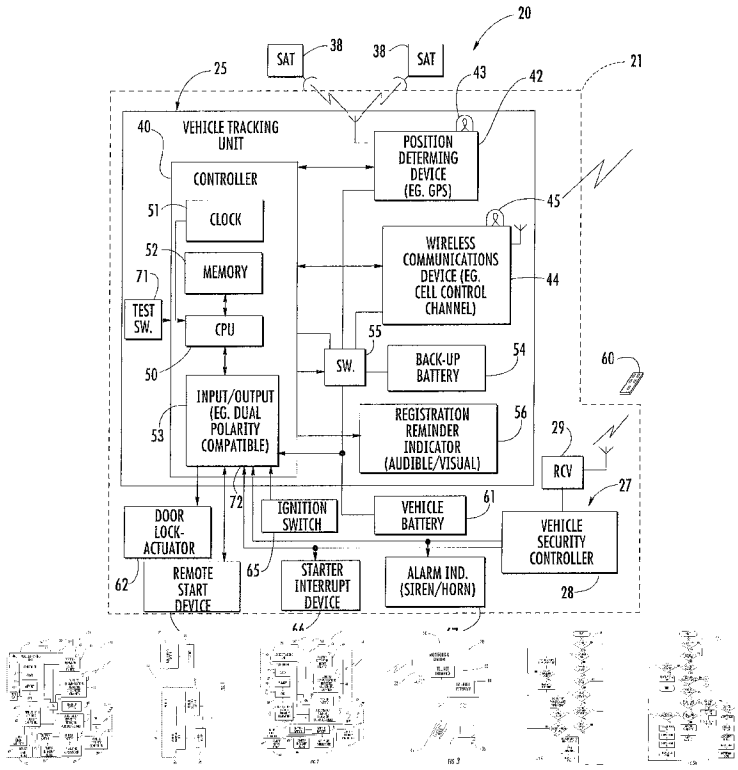
Trial Judge: Paul G. Byron , Judge

Date NOA Filed: 12/11/2017

Copyright © 2018 LexisNexis CourtLink, Inc. All rights reserved.
*** THIS DATA IS FOR INFORMATIONAL PURPOSES ONLY ***

US8032278B2 - Vehicle tracking unit with downloadable codes and associated methods

A multi-vehicle compatible tracking unit is for a vehicle including a vehicle data bus extending throughout the vehicle. The vehicle tracking unit may include a vehicle position determining device, a wireless communications device, and a multi-vehicle compatible controller for cooperating with the vehicle position determining device and the wireless communications device to send vehicle position information. The multi-vehicle compatible controller may be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles. A downloading interface may be included for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by the multi-vehicle compatible controller.



Bibliographic information

Publication	**US8032278B2**	10/04/2011
Application	**US11773272**	07/03/2007
Priority	**US11773272**	07/03/2007
Current assignee	**OMEGA PATENTS, L.L.C.**	
Inventor	**Kenneth E. Flick**	
Legal representative	**Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A.**	
Status	Granted	

Claims

1 . 1. A multi-vehicle compatible tracking unit for a vehicle comprising a vehicle data bus extending throughout the vehicle, the multi-vehicle compatible tracking unit comprising: a vehicle position determining

device; a wireless communications device; a multi-vehicle compatible controller for cooperating with said vehicle position determining device and said wireless communications device to send vehicle position information; said multi-vehicle compatible controller to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles; and a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller.

2 . 2. The multi-vehicle compatible tracking unit according to claim 1 wherein said downloading interface comprises a wired signal downloading interface.

3 . 3. The multi-vehicle compatible tracking unit according to claim 2 wherein said wired signal downloading interface comprises a connector for temporary connection to a downloading device.

4 . 4. The multi-vehicle compatible tracking unit according to claim 1 wherein said downloading interface comprises a wireless signal downloading interface.

5 . 5. The multi-vehicle compatible tracking unit according to claim 4 wherein said wireless signal downloading interface comprises a wireless receiver for temporary connection to a downloading device.

6 . 6. The multi-vehicle compatible tracking unit according to claim 1 wherein the corresponding at least one vehicle code is for reading from the at least one vehicle device.

7 . 7. The multi-vehicle compatible tracking unit according to claim 1 wherein the corresponding at least one vehicle code is for writing to the at least one vehicle device.

8 . 8. The multi-vehicle compatible tracking unit according to claim 1 wherein said downloading interface is also for permitting downloading of at least one programming instruction for said multi-vehicle compatible controller.

9 . 9. The multi-vehicle compatible tracking unit according to claim 1 further comprising a remote transmitter; and wherein said multi-vehicle compatible controller also performs at least one vehicle remote control function responsive to said remote transmitter.

10 . 10. The multi-vehicle compatible tracking unit according to claim 9 wherein the at least one vehicle remote control function comprises at least one of a vehicle security function, a remote keyless entry function, and a remote engine starting function.

11 . 11. The multi-vehicle compatible tracking unit according to claim 1 wherein said wireless position determining device comprises a Global Positioning System (GPS) receiver.

12 . 12. The multi-vehicle compatible tracking unit according to claim 1 further comprising a housing containing said vehicle position determining device, said wireless communications device, said multi-vehicle compatible controller, and said downloading interface.

13 . 13. A multi-vehicle compatible tracking unit for a vehicle comprising a vehicle data bus extending throughout the vehicle, the multi-vehicle compatible vehicle tracking unit comprising: a vehicle position determining device; a wireless communications device; a multi-vehicle compatible controller for cooperating with said vehicle position determining device and said wireless communications device to send vehicle position information; said multi-vehicle compatible controller to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles; and a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller; said downloading interface comprising a connector for temporary connection to a downloading device.

14 . 14. The multi-vehicle compatible tracking unit according to claim 13 wherein the corresponding at least one vehicle code is for reading from the at least one vehicle device.

15 . 15. The multi-vehicle compatible tracking unit according to claim 13 wherein the corresponding at least one vehicle code is for writing to the at least one vehicle device.

16 . 16. The multi-vehicle compatible tracking unit according to claim 13 wherein said downloading interface is also for permitting downloading of at least one programming instruction for said multi-vehicle compatible controller.

17 . 17. The multi-vehicle compatible tracking unit according to claim 13 further comprising a remote transmitter; and wherein said multi-vehicle compatible controller also performs at least one vehicle remote control function responsive to said remote transmitter.

18 . 18. A multi-vehicle compatible tracking unit for a vehicle comprising a vehicle data bus extending throughout the vehicle, the multi-vehicle compatible vehicle tracking unit comprising: a vehicle position determining device; a wireless communications device; a multi-vehicle compatible controller for cooperating with said vehicle position determining device and said wireless communications device to send vehicle position information; said multi-vehicle compatible controller to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles; and a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller; said downloading interface comprising a wireless receiver for temporary connection to a downloading device.

19 . 19. The multi-vehicle compatible tracking unit according to claim 18 wherein the corresponding at least one vehicle code is for reading from the at least one vehicle device.

20 . 20. The multi-vehicle compatible tracking unit according to claim 18 wherein the corresponding at least one vehicle code is for writing to the at least one vehicle device.

21 . 21. The multi-vehicle compatible tracking unit according to claim 18 wherein said downloading interface is also for permitting downloading of at least one programming instruction for said multi-vehicle compatible controller.

22 . 22. The multi-vehicle compatible tracking unit according to claim 18 further comprising a remote transmitter; and wherein said multi-vehicle compatible controller also performs at least one vehicle remote control function responsive to said remote transmitter.

1 . 1. A multi-vehicle compatible tracking unit for a vehicle comprising a vehicle data bus extending throughout the vehicle, the multi-vehicle compatible tracking unit comprising: a vehicle position determining device; a wireless communications device; a multi-vehicle compatible controller for cooperating with said vehicle position determining device and said wireless communications device to send vehicle position information; said multi-vehicle compatible controller to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles; and a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller.

2 . 2. The multi-vehicle compatible tracking unit according to claim 1 wherein said downloading interface comprises a wired signal downloading interface.

3 . 3. The multi-vehicle compatible tracking unit according to claim 2 wherein said wired signal downloading interface comprises a connector for temporary connection to a downloading device.

4 . 4. The multi-vehicle compatible tracking unit according to claim 1 wherein said downloading interface comprises a wireless signal downloading interface.

5 . 5. The multi-vehicle compatible tracking unit according to claim 4 wherein said wireless signal downloading interface comprises a wireless receiver for temporary connection to a downloading device.

6 . 6. The multi-vehicle compatible tracking unit according to claim 1 wherein the corresponding at least one vehicle code is for reading from the at least one vehicle device.

7 . 7. The multi-vehicle compatible tracking unit according to claim 1 wherein the corresponding at least one vehicle code is for writing to the at least one vehicle device.

8 . 8. The multi-vehicle compatible tracking unit according to claim 1 wherein said downloading interface is also for permitting downloading of at least one programming instruction for said multi-vehicle compatible controller.

9 . 9. The multi-vehicle compatible tracking unit according to claim 1 further comprising a remote transmitter; and wherein said multi-vehicle compatible controller also performs at least one vehicle remote control function responsive to said remote transmitter.

10 . 10. The multi-vehicle compatible tracking unit according to claim 9 wherein the at least one vehicle remote control function comprises at least one of a vehicle security function, a remote keyless entry function, and a remote engine starting function.

11 . 11. The multi-vehicle compatible tracking unit according to claim 1 wherein said wireless position determining device comprises a Global Positioning System (GPS) receiver.

12 . 12. The multi-vehicle compatible tracking unit according to claim 1 further comprising a housing containing said vehicle position determining device, said wireless communications device, said multi-vehicle compatible controller, and said downloading interface.

13 . 13. A multi-vehicle compatible tracking unit for a vehicle comprising a vehicle data bus extending throughout the vehicle, the multi-vehicle compatible vehicle tracking unit comprising: a vehicle position determining device; a wireless communications device; a multi-vehicle compatible controller for cooperating with said vehicle position determining device and said wireless communications device to send vehicle position information; said multi-vehicle compatible controller to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles; and a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller; said downloading interface comprising a connector for temporary connection to a downloading device.

14 . 14. The multi-vehicle compatible tracking unit according to claim 13 wherein the corresponding at least one vehicle code is for reading from the at least one vehicle device.

15 . 15. The multi-vehicle compatible tracking unit according to claim 13 wherein the corresponding at least one vehicle code is for writing to the at least one vehicle device.

16 . 16. The multi-vehicle compatible tracking unit according to claim 13 wherein said downloading interface is also for permitting downloading of at least one programming instruction for said multi-vehicle compatible controller.

17 . 17. The multi-vehicle compatible tracking unit according to claim 13 further comprising a remote transmitter; and wherein said multi-vehicle compatible controller also performs at least one vehicle remote control function responsive to said remote transmitter.

18 . 18. A multi-vehicle compatible tracking unit for a vehicle comprising a vehicle data bus extending throughout the vehicle, the multi-vehicle compatible vehicle tracking unit comprising: a vehicle position determining device; a wireless communications device; a multi-vehicle compatible controller for cooperating with said vehicle position determining device and said wireless communications device to send vehicle position information; said multi-vehicle compatible controller to be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles; and a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by said multi-vehicle compatible controller; said downloading interface comprising a wireless receiver for temporary connection to a downloading device.

19 . 19. The multi-vehicle compatible tracking unit according to claim 18 wherein the corresponding at least one vehicle code is for reading from the at least one vehicle device.

20 . 20. The multi-vehicle compatible tracking unit according to claim 18 wherein the corresponding at least one vehicle code is for writing to the at least one vehicle device.

21 . 21. The multi-vehicle compatible tracking unit according to claim 18 wherein said downloading interface is also for permitting downloading of at least one programming instruction for said multi-vehicle compatible controller.

22 . 22. The multi-vehicle compatible tracking unit according to claim 18 further comprising a remote transmitter; and wherein said multi-vehicle compatible controller also performs at least one vehicle remote control function responsive to said remote transmitter.

Total of 100% of claims loaded.

Families

This section contains all family relations of this particular document. For more information about the different families please refer to the Manual (Glossary/Families)

Extended (55)	Complete (2)	Main (2)	Domestic (2)	Application number	Priority	Publication
05/17/2001	08/24/2007	08/24/2007	08/24/2007	US11844703	US11844703 08/24/2007	**US7671727B2**
				US11844703	US11844703 08/24/2007	**US200800303**
	07/03/2007	07/03/2007	07/03/2007	US11773272	US11773272 07/03/2007	**US8032278B2**
				US11773272	US11773272 07/03/2007	**US200702792**
	03/10/2005	03/10/2005	03/10/2005	US11077401	US11077401 03/10/2005	**US7015830B2**

Similar documents

The similarity check is done by matching this document to all documents in the database. Only the title and abstract text are matched, resulting in a score. The 10 highest scoring documents are shown here.

Vehicle tracking unit for controlling operable vehicle devices using a vehicle data bus and related methods

Publication number **US7015830B2**
Publication date 03/21/2006
Application date 03/10/2005

A vehicle tracking unit is provided for a vehicle of a type comprising a vehicle data bus extending throughout the vehicle and at least one operable vehicle device connected thereto. The at least one operable vehicle device may be responsive to at least one data bus code on the vehicle data bus. The vehicle tracking unit may include a vehicle position determining device, a wireless communications device, and a controller cooperating with the vehicle position determining device and the wireless communications device to send vehicle position information to a user. Moreover, the controller may generate the at least one data bus code on the vehicle data communications bus to control the at least one operable vehicle device based upon a command signal received by the wireless device.

Vehicle tracking unit for controlling operable vehicle devices using a vehicle data bus and related methods

Publication number **US6924750B2**
Publication date 08/02/2005
Application date 03/25/2002

A vehicle tracking unit is provided for a vehicle of a type comprising a vehicle data bus extending throughout the vehicle and at least one operable vehicle device connected thereto. The at least one operable vehicle device may be responsive to at least one data bus code on the vehicle data bus. The vehicle tracking unit may include a vehicle position determining device, a wireless communications device, and a controller cooperating with the vehicle position determining device and the wireless communications device to send vehicle position information to a monitoring station. Moreover, the controller may generate the at least one data bus code on the vehicle data communications bus to control the at least one operable vehicle device based upon a command signal received by the wireless device.

Vehicle tracking unit for controling operable vehicle devices using a vehicle data bus and related methods

at least one operable vehicle device may be responsive to at least one data bus code on the vehicle data bus. The vehicle tracking unit may include a vehicle position determining device, a wireless communications device, and a controller cooperating with the vehicle position determining device and the wireless communications device to send vehicle position information to a monitoring station. Moreover, the controller may generate the at least one data bus code on the vehicle data communications bus to control the at least one operable vehicle device based upon a command signal received by the wireless device.

Vehicle tracking unit for controlling operable vehicle devices using a vehicle data bus and related methods

Publication number **US20050190080A1**
Publication date 09/01/2005
Application date 03/10/2005

A vehicle tracking unit is provided for a vehicle of a type comprising a vehicle data bus extending throughout the vehicle and at least one operable vehicle device connected thereto. The at least one operable vehicle device may be responsive to at least one data bus code on the vehicle data bus. The vehicle tracking unit may include a vehicle position determining device, a wireless communications device, and a controller cooperating with the vehicle position determining device and the wireless communications device to send vehicle position information to a user. Moreover, the controller may generate the at least one data bus code on the vehicle data communications bus to control the at least one operable vehicle device based upon a command signal received by the wireless device.

MULTI-CONTROLLER DATA BUS ADAPTOR OPERABLE BASED UPON CONTROLLER DOWNLOADED ADAPTOR CODES AND RELATED METHODS

Publication number **CA2921331C**
Publication date 12/05/2017
Application date 02/18/2016

A remote control system may be for a vehicle including a data communications bus extending throughout the vehicle and connecting vehicle devices. The vehicle devices may be operable with a given set of vehicle device codes from among different sets thereof for different vehicles. A vehicle controller that is responsive to a remote transmitter may include a controller data link interface. A data bus adaptor may store the given set of vehicle device codes and include an adaptor data link interface cooperating with the controller data link interface to provide a communication link for adapting the vehicle controller to communicate with a vehicle device via the data communications bus. The data bus adaptor may be operable based upon a set of adaptor codes from among different sets thereof. The vehicle controller may include a controller download interface for downloading the set of adaptor codes to operate the data bus

MULTI-CONTROLLER DATA BUS ADAPTOR OPERABLE BASED UPON CONTROLLER DOWNLOADED ADAPTOR CODES AND RELATED METHODS

Publication number **CA2921331A1**
Publication date 08/18/2016
Application date 02/18/2016

A remote control system may be for a vehicle including a data communications bus extending throughout the vehicle and connecting vehicle devices. The vehicle devices may be operable with a given set of vehicle device codes from among different sets thereof for different vehicles. A vehicle controller that is responsive to a remote transmitter may include a controller data link interface. A data bus adaptor may store the given set of vehicle device codes and include an adaptor data link interface cooperating with the controller data link interface to provide a communication link for adapting the vehicle controller to communicate with a vehicle device via the data communications bus. The data bus adaptor may be operable based upon a set of adaptor codes from among different sets thereof. The vehicle controller may include a controller download interface for downloading the set of adaptor codes to operate the data bus adaptor.

Multi-controller data bus adaptor operable based upon controller downloaded adaptor codes and related methods

Publication number **US9582991B2**
Publication date 02/28/2017
Application date 02/18/2015

A remote control system may be for a vehicle including a data communications bus extending throughout the vehicle and connecting vehicle devices. The vehicle devices may be operable with a given set of vehicle device codes from among different sets thereof for different vehicles. A vehicle controller that is responsive to a remote transmitter may include a controller data link interface. A data bus adaptor may store the given set of vehicle device codes and include an adaptor data link interface cooperating with the controller data link interface to provide a communication link for adapting the vehicle controller to communicate with a vehicle device via the data communications bus. The data bus adaptor may be operable based upon a set of adaptor codes from among different sets thereof. The vehicle controller may include a controller download interface for downloading the set of adaptor codes to operate the data bus adaptor.

MULTI-CONTROLLER DATA BUS ADAPTOR OPERABLE BASED UPON CONTROLLER DOWNLOADED ADAPTOR CODES AND RELATED METHODS

with a given set of vehicle device codes from among different sets thereof for different vehicles. A vehicle controller that is responsive to a remote transmitter may include a controller data link interface. A data bus adaptor may store the given set of vehicle device codes and include an adaptor data link interface cooperating with the controller data link interface to provide a communication link for adapting the vehicle controller to communicate with a vehicle device via the data communications bus. The data bus adaptor may be operable based upon a set of adaptor codes from among different sets thereof. The vehicle controller may include a controller download interface for downloading the set of adaptor codes to operate the data bus adaptor.

Multi-adaptor vehicle tracker controller and associated methods

Publication number **US10127174B2**
Publication date 11/13/2018
Application date 11/18/2015

A vehicle tracker system for a vehicle including a data communications bus extending throughout the vehicle may include a multi-adaptor vehicle tracker controller including a position determining device, a wireless communications device, a controller data link interface, a download learning port, and a processor. The processor may communicate geolocation data via the wireless communications device. A data bus adaptor may adapt the tracker controller to communicate via the data communications bus and include an adaptor data link interface coupled to the controller data link interface. The data bus adaptor may be operable with a given set of proprietary remote function controller codes. The processor may be operable with different sets of proprietary remote function controller codes, and determine the given set of proprietary codes based upon the download learning port and use the given set of proprietary codes for communications with the data bus adaptor.

MULTI-ADAPTOR VEHICLE TRACKER CONTROLLER AND ASSOCIATED METHODS

Publication number **CA2942502C**
Publication date 10/02/2018
Application date 09/21/2016

A vehicle tracker system for a vehicle including a data communications bus extending throughout the vehicle may include a multi-adaptor vehicle tracker controller including a position determining device, a wireless communications device, a controller data link interface, a download learning port, and a processor. The processor may communicate geolocation data via

may be operable with a given set of proprietary remote function controller codes. The processor may be operable with different sets of proprietary remote function controller codes, and determine the given set of proprietary codes based upon the download learning port and use the given set of proprietary codes for communications with the data bus adaptor.

Citations

Citation	Authority	Normalized number	Application date	Publication number	Publication date
backward	US	5223844	04/17/1992	**US5223844A**	06/29/1993
backward	US	5515043	08/17/1994	**US5515043A**	05/07/1996
backward	US	5635693	02/02/1995	**US5635693A**	06/03/1997
backward	US	5654688	04/14/1995	**US5654688A**	08/05/1997
backward	US	5719551	08/22/1996	**US5719551A**	02/17/1998
backward	US	5940007	02/24/1997	**US5940007A**	08/17/1999
backward	US	6011460	02/13/1998	**US6011460A**	01/04/2000
backward	US	6253064	02/25/1999	**US6253064B1**	06/26/2001
backward	US	6611755	12/19/1999	**US6611755B1**	08/26/2003
backward	US	6628233	09/19/2002	**US6628233B2**	09/30/2003

1 2 3 4 5 6 7

Non-patent literature

Intelligent Object-Tracking using Sensor Networks; Sridhar, P.; Madni, A.M.; Jamshidi, M.; Sensors Applications Symposium, 2007. SAS '07. IEEE; Feb. 6-8, 2007 pp. 1-5; Digital Object Identifier 10.1109/SAS.2007.374384.

Energy efficient sleep scheduling based on moving directions in target tracking sensor network; Bo Jiang; Kai Han; Ravindran, B.; Hyeonjoong Cho; Parallel and Distributed Processing, 2008. IPDPS 2008. IEEE International Symposium on; Apr. 14-18, 2008 pp. 1-10; Digital Object Identifier 10.1109/IPDPS.2008.4536330.

A self-organizing hybrid sensor system with distributed data fusion for intruder tracking and surveillance; Palaniappan, R.; Clarke, T.; Wahid, P.; Behdad, N.; Kincaid, P.; Antennas and Propagation Society International Symposium, 2008. AP-S 2008. IEEE; Jul. 5-11, 2008 pp. 1-4; Digital Object Identifier 10.1109/APS.2008.4619564.

SVATS: A Sensor-Network-Based Vehicle Anti-Theft System; Hui Song; Sencun Zhu; Guohong Cao; INFOCOM 2008. The 27th Conference on Computer Communications. IEEE; Apr. 13-18, 2008 pp. 2128-2136; Digital Object Identifier 10.1109/INFOCOM.2008.279.
Omega Research and Development, Inc., "GPS 2000", distributed at Consumer Electronics Show in Las Vegas, NV, Jan. 2001, pp. 1-4.
Security Challenges of Location-Aware Mobile Business; Tatly, E.I.; Stegemann, D.; Lucks, S.; Mobile Commerce and Services, 2005. WMCS '05. The Second IEEE International Workshop on; Jul. 19, 2005 pp. 84-95; Digital Object Identifier 10.1109/WMCS.2005.23. (http://www.scopus.com/record/display.url?eid=2-s2.0-33847135216&origin=inward)
Motion tracking: no silver bullet, but a respectable arsenal; Welch, G.; Foxlin, E.; Computer Graphics and Applications, IEEE vol. 22, Issue 6, Nov.-Dec. 2002 pp. 24-38; Digital Object Identifier 10.1109/MCG.2002.1046626. (http://www.scopus.com/record/display.url?eid=2-s2.0-0036857027&origin=inward)
Localization of ahead vehicles with on-board stereo cameras; Zanin, M.; Image Analysis and Processing, 2007. ICIAP 2007. 14th International Conference on; Sep. 10-14, 2007 pp. 111-116; Digital Object Identifier 10.1109/ICIAP.2007.4362766.

Description

RELATED APPLICATIONS

[0001] The present application is a continuation-in-part of U.S. patent application Ser. No. 11/076,259 filed Mar. 9, 2005 now U.S. Pat. No. 7,720,597, which is a continuation of U.S. patent application Ser. No. 10/383,496 filed Mar. 7, 2003 now U.S. Pat. No. 7,149,623, which is a continuation of U.S. patent application Ser. No. 09/859,972 filed on May 17, 2001 now U.S. Pat. No. 6,606,561 which, in turn, was based upon provisional patent application Ser. Nos. 60/264,811 filed on Jan. 29, 2001; 60/258,005, filed Dec. 22, 2000; 60/251,552, filed Dec. 6, 2000; 60/252,125, filed Nov. 20, 2000; 60/236,890, filed Sep. 29, 2000; 60/246,463, filed Nov. 7, 2000; 60/222,777, filed Aug. 3, 2000; and 60/205,178, filed May 17, 2000, the entire contents of each of which are incorporated herein by reference.

FIELD OF THE INVENTION

[0002] The present invention relates to the field of vehicle devices, and, more particularly, to a tracking system for vehicles, and related methods.

BACKGROUND OF THE INVENTION

[0003] Motor vehicles, such as passenger cars, trucks, busses, fleet vehicles, etc. are widely used and knowing the locations of such vehicles is often desired. For example, should a vehicle be stolen, it would be beneficial to know the vehicle's location so that authorities could be promptly and accurately directed to retrieve the vehicle. Indeed, the tracking system could plot the getaway path of the thief.

[0004] For a company with hired drivers, it may be desirable to know the driver's whereabouts during the course of the day. Similarly, a rental car agency or other fleet operator, for example, may wish to know the whereabouts of its fleet of vehicles.

[0005] It may also be desirable to track the location of a vehicle as it is used throughout the course of a normal day. For parents of younger or older drivers, for example, knowledge of the vehicle's location may provide some assurance that the driver is at designated locations and following a prescribed route.

[0006] A number of patents disclose various systems and approaches to tracking vehicles. For example, U.S. Pat. No. 5,223,844 discloses a tracking system including a control center and a mobile unit installed in the vehicle. The mobile unit may send security warnings to the command center via a wireless transceiver. Position information for the vehicle is determined using a GPS receiver at the vehicle.

[0007] U.S. Pat. No. 5,515,043 discloses a similar system which may send one or more preprogrammed telephone messages to a user when away from the vehicle. The user may remotely access location information or cause certain commands to be carried out by entering a personal identification number (PIN).

[0008] The widespread availability and use of the Internet has prompted a number of vehicle tracking systems to also make use of the Internet. For example, TelEvoke, Inc. proposed such a system in combination with Clifford Electronics. The system was to provide notification, control and tracking services via the telephone or the Internet. Users could be notified via phone, e-mail, or pager of events such as a car alarm being triggered. Users could control the vehicle remote devices via phone, web, or PDA such as unlocking car doors. Additionally, users could track TelEvoke-enabled vehicles on the Internet or via the telephone. An Internet map could be viewed by the user showing the actual and prior vehicle locations. TelEvoke offered its services via a centralized fully automated Network Operations Center. To reduce the communications costs, it was proposed to use the control channel of the cellular telephone network.

[0009] There are, of course, a number of vehicles which come from the manufacturer with some form of security system already installed. In addition, a number of vehicles are also equipped with aftermarket security systems. Many conventional vehicle tracking units may not be readily installed in vehicles, particularly those vehicles already including a vehicle security system. In addition, complexity of installation may significantly increase the system costs.

[0010] A number of patents disclose various security and control systems that address data bus interoperability. For example, U.S. Pat. No. 5,719,551, assigned to Omega Patents, LLC, the assignee of the present invention, discloses a vehicle security system for a vehicle including a data bus connecting a plurality of vehicle devices. A signal enabling circuit enables the alarm controller to operate using a set of desired signals selected from a plurality of possible sets for different vehicles. U.S. Pat. No. 6,011,460, assigned to Omega Patents, LLC, discloses a similar system where the set of desired signals from the plurality of different sets of signals for different vehicles is obtained, such as by connection and communication with a downloading device. Additionally, U.S. Pat. No. 6,756,885, also assigned to Omega Patents, LLC, discloses a multi-vehicle control system whereby a multi-vehicle compatible controller stores a set of device codes for a given vehicle device for a plurality of different vehicles. Device codes are read from the data communications bus, and a match between a read device code and the stored device codes is determined to provide compatibility with different vehicles.

[0011] Unfortunately, such advanced techniques for dealing with multiple device codes for a vehicle having a data communications bus have not yet been developed for vehicle tracking units.

SUMMARY OF THE INVENTION

[0012] In view of the foregoing background, it is therefore an object of the present invention to provide a multi-vehicle compatible tracking unit which may be used to control operable vehicle devices, and/or read information therefrom via the vehicle data communications bus and related methods.

[0013] This and other objects, features, and advantages in accordance with the present invention are provided by a multi-vehicle compatible tracking unit for a vehicle comprising a vehicle data bus extending throughout the vehicle. The multi-vehicle compatible tracking unit may include a vehicle position determining device, a wireless communications device, and a multi-vehicle compatible controller for cooperating with the vehicle position determining device and the wireless communications device to send

vehicle position information. The multi-vehicle compatible controller may be coupled to the vehicle data bus for communication thereover with at least one vehicle device. The at least one vehicle device may use at least one corresponding vehicle device code from among a plurality thereof for different vehicles. The tracking unit may also include a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by the multi-vehicle compatible controller. Accordingly, the multi-vehicle compatible tracking unit may be used to control operable vehicle devices, and/or read information therefrom via the vehicle data communications bus.

[0014] The downloading interface may comprise either a wired or wireless signal downloading interface. The wired signal downloading interface may comprise a connector for temporary connection to a downloading device, for example. The wireless signal downloading interface may include a wireless receiver for temporary connection to a downloading device. The wireless signal downloading interface may also be in the form of a connection to the wireless communications device used for sending position information. The downloading interface may also be for permitting downloading of at least one programming instruction for the multi-vehicle compatible controller, in some embodiments.

[0015] The corresponding at least one vehicle code may be for reading from the at least one vehicle device, and/or for writing to the at least one vehicle device. Further, the multi-vehicle compatible tracking unit may comprise a remote transmitter. At least one vehicle remote control function responsive to the remote transmitter may be performed by the multi-vehicle compatible controller. For example, the at least one vehicle remote control function may include at least one of a vehicle security function, a remote keyless entry function, and a remote engine starting function. Also, the wireless position determining device may comprise a Global Positioning System (GPS) receiver. A tracking unit may also include a common housing for its various components.

[0016] A method aspect is for using a multi-vehicle compatible tracking unit for a vehicle comprising a vehicle data bus extending throughout the vehicle. The multi-vehicle compatible tracking unit may include a vehicle position determining device, a wireless communications device, and a multi-vehicle compatible controller for cooperating with the vehicle position determining device and the wireless communications device to send vehicle position information. The multi-vehicle compatible controller may be coupled to the vehicle data bus for connection thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality of thereof for different vehicles. The method may include downloading the enabling data related to at least one corresponding vehicle device code for use by the multi-vehicle compatible controller via a downloading interface.

BRIEF DESCRIPTION OF THE DRAWINGS

[0017] FIG. 1 is a simplified block diagram of a vehicle tracking system in accordance with the present invention.

[0018] FIG. 2 is a more detailed block diagram of the vehicle tracking unit as shown in FIG. 1.

[0019] FIG. 3 is a more detailed block diagram of the monitoring station as shown in FIG. 1.

[0020] FIG. 4 is a flowchart for operation of the vehicle tracking system as shown in FIG. 1 illustrating a vehicle stolen alert.

[0021] FIGS. 5A-5C are a flowchart for operation of the vehicle tracking system as shown in FIG. 1 illustrating a vehicle alarm sounding alert.

[0022] FIG. 6 is a flowchart for operation of the vehicle tracking system as shown in FIG. 1 illustrating a vehicle speeding alert.

[0023] FIG. 7 is a flowchart for operation of the vehicle tracking system as shown in FIG. 1 illustrating an unauthorized transmitter learned alert.

[0024] FIG. 8 is a flowchart for operation of the vehicle tracking system as shown in FIG. 1 illustrating a low battery alert.

[0025] FIG. 9 is a flowchart for operation of the vehicle tracking system as shown in FIG. 1 illustrating a GPS or cellular unit failure alert.

[0026] FIG. 10 is a simplified block diagram of a multi-vehicle compatible tracking unit in accordance with the invention.

[0027] FIG. 11 is a more detailed block diagram of an embodiment of the downloading interface as shown in FIG. 10.

[0028] FIG. 12 is a more detailed block diagram of another embodiment of a downloading interface as shown in FIG. 10.

[0029] FIG. 13 is a more detailed block diagram of yet another embodiment of the downloading interface as shown in FIG. 10.

[0030] FIG. 14 is a flowchart showing a method in accordance with the invention.

[0031] FIG. 15 is a flowchart showing another embodiment of a method in accordance with the invention.

DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS

[0032] The present invention will now be described more fully hereinafter with reference to the accompanying drawings in which preferred embodiments of the invention are shown. This invention may, however, be embodied in many different forms and should not be construed as limited to the illustrated embodiments set forth herein. Rather, these embodiments are provided so that this disclosure will be thorough and complete, and will fully convey the scope of the invention to those skilled in the art. Like numbers refer to like elements throughout, and prime notation and multiple prime notation are used to indicate similar elements in alternate embodiments.

[0033] Referring to FIGS. 1-3, the vehicle tracking system **20** in accordance with the invention is now initially described. The vehicle system **20** illustratively includes a vehicle tracking unit **25** to be mounted in the vehicle **21** and a monitoring station **30** which is remote from the vehicle and which is typically in a fixed location. In the illustrated embodiment, the vehicle tracking unit **25** interfaces with various vehicle devices, such as may include security sensors, door locks, etc. as will be appreciated by those skilled in the art.

[0034] The vehicle tracking unit **25** is also illustratively connected to a separate vehicle security system **27** as may already be installed in the vehicle **21**, from the factory or installed as an aftermarket product. Those of skill in the art will appreciate that in some embodiments of the vehicle tracking system **20** a separate vehicle security system **27** may not be needed, and/or various features thereof can be readily incorporated in the vehicle tracking unit **25**.

[0035] The monitoring station **30** may typically service a number of subscribers **31**. As shown perhaps best in FIG. 3, the monitoring station **30** may include a user interface, such as the schematically illustrated telephone network interface **33** and the internet interface **34** which are schematically coupled to a telephone **35**, and a computer **36**, respectively. Of course in other embodiments, other interfaces may be used and only one of the illustrated interfaces may be needed. Those of skill in the art will also recognize that messages may be sent to a subscriber or user via preprogrammed voice messages, e-mail messages, facsimile messages, pager alerts, etc. In addition commands or instructions from the subscriber can also be input to the monitoring station **30** via the telephone network interface **33** and/or the internet interface **34**, from the subscribers telephone **35** or computer **36**.

[0036] The monitoring station **30** is illustratively connected to a cellular telephone tower **32** which, in turn, may communicate with the vehicle tracking unit **25** in some embodiments. Of course, in other embodiments other communications approaches are also contemplated, such as, for example, including satellite communications.

[0037] The monitoring station **30** may typically include the necessary modems, and other communications electronics, and computers for its functions which are described in greater detail below. The configuration of such components and their details will be readily apparent to those skilled in the art. Accordingly, no further discussion of these details is needed.

[00

RELATED APPLICATIONS

[0001] The present application is a continuation-in-part of U.S. patent application Ser. No. 11/076,259 filed Mar. 9, 2005 now U.S. Pat. No. 7,720,597, which is a continuation of U.S. patent application Ser. No. 10/383,496 filed Mar. 7, 2003 now U.S. Pat. No. 7,149,623, which is a continuation of U.S. patent application Ser. No. 09/859,972 filed on May 17, 2001 now U.S. Pat. No. 6,606,561 which, in turn, was based upon provisional patent application Ser. Nos. 60/264,811 filed on Jan. 29, 2001; 60/258,005, filed Dec. 22, 2000; 60/251,552, filed Dec. 6, 2000; 60/252,125, filed Nov. 20, 2000; 60/236,890, filed Sep. 29, 2000; 60/246,463, filed Nov. 7, 2000; 60/222,777, filed Aug. 3, 2000; and 60/205,178, filed May 17, 2000, the entire contents of each of which are incorporated herein by reference.

FIELD OF THE INVENTION

[0002] The present invention relates to the field of vehicle devices, and, more particularly, to a tracking system for vehicles, and related methods.

BACKGROUND OF THE INVENTION

[0003] Motor vehicles, such as passenger cars, trucks, busses, fleet vehicles, etc. are widely used and knowing the locations of such vehicles is often desired. For example, should a vehicle be stolen, it would be beneficial to know the vehicle's location so that authorities could be promptly and accurately directed to retrieve the vehicle. Indeed, the tracking system could plot the getaway path of the thief.

[0004] For a company with hired drivers, it may be desirable to know the driver's whereabouts during the course of the day. Similarly, a rental car agency or other fleet operator, for example, may wish to know the whereabouts of its fleet of vehicles.

[0005] It may also be desirable to track the location of a vehicle as it is used throughout the course of a normal day. For parents of younger or older drivers, for example, knowledge of the vehicle's location may provide some assurance that the driver is at designated locations and following a prescribed route.

[0006] A number of patents disclose various systems and approaches to tracking vehicles. For example, U.S. Pat. No. 5,223,844 discloses a tracking system including a control center and a mobile unit installed in the vehicle. The mobile unit may send security warnings to the command center via a wireless transceiver. Position information for the vehicle is determined using a GPS receiver at the vehicle.

[0007] U.S. Pat. No. 5,515,043 discloses a similar system which may send one or more preprogrammed telephone messages to a user when away from the vehicle. The user may remotely access location information or cause certain commands to be carried out by entering a personal identification number (PIN).

[0008] The widespread availability and use of the Internet has prompted a number of vehicle tracking systems to also make use of the Internet. For example, TelEvoke, Inc. proposed such a system in combination with Clifford Electronics. The system was to provide notification, control and tracking services via the telephone or the Internet. Users could be notified via phone, e-mail, or pager of events such as a car alarm being triggered. Users could control the vehicle remote devices via phone, web, or PDA such as unlocking car doors. Additionally, users could track TelEvoke-enabled vehicles on the Internet or via the telephone. An Internet map could be viewed by the user showing the actual and prior vehicle locations. TelEvoke offered its services via a centralized fully automated Network Operations Center. To reduce the communications costs, it was proposed to use the control channel of the cellular telephone network.

[0009] There are, of course, a number of vehicles which come from the manufacturer with some form of security system already installed. In addition, a number of vehicles are also equipped with aftermarket security systems. Many conventional vehicle tracking units may not be readily installed in vehicles, particularly those vehicles already including a vehicle security system. In addition, complexity of installation may significantly increase the system costs.

[0010] A number of patents disclose various security and control systems that address data bus interoperability. For example, U.S. Pat. No. 5,719,551, assigned to Omega Patents, LLC, the assignee of the present invention, discloses a vehicle security system for a vehicle including a data bus connecting a plurality of vehicle devices. A signal enabling circuit enables the alarm controller to operate using a set of desired signals selected from a plurality of possible sets for different vehicles. U.S. Pat. No. 6,011,460, assigned to Omega Patents, LLC, discloses a similar system where the set of desired signals from the plurality of different sets of signals for different vehicles is obtained, such as by connection and communication with a downloading device. Additionally, U.S. Pat. No. 6,756,885, also assigned to Omega Patents, LLC, discloses a multi-vehicle control system whereby a multi-vehicle compatible controller stores a set of device codes for a given vehicle device for a plurality of different vehicles. Device codes are read from the data communications bus, and a match between a read device code and the stored device codes is determined to provide compatibility with different vehicles.

[0011] Unfortunately, such advanced techniques for dealing with multiple device codes for a vehicle having a data communications bus have not yet been developed for vehicle tracking units.

SUMMARY OF THE INVENTION

[0012] In view of the foregoing background, it is therefore an object of the present invention to provide a multi-vehicle compatible tracking unit which may be used to control operable vehicle devices, and/or read information therefrom via the vehicle data communications bus and related methods.

[0013] This and other objects, features, and advantages in accordance with the present invention are provided by a multi-vehicle compatible tracking unit for a vehicle comprising a vehicle data bus extending throughout the vehicle. The multi-vehicle compatible tracking unit may include a vehicle position determining device, a wireless communications device, and a multi-vehicle compatible controller for cooperating with the vehicle position determining device and the wireless communications device to send vehicle position information. The multi-vehicle compatible controller may be coupled to the vehicle data bus for communication thereover with at least one vehicle device. The at least one vehicle device may use at least one corresponding vehicle device code from among a plurality thereof for different vehicles. The tracking unit may also include a downloading interface for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by the multi-vehicle compatible controller. Accordingly, the multi-vehicle compatible tracking unit may be used to control operable vehicle devices, and/or read information therefrom via the vehicle data communications bus.

[0014] The downloading interface may comprise either a wired or wireless signal downloading interface. The wired signal downloading interface may comprise a connector for temporary connection to a downloading device, for example. The wireless signal downloading interface may include a wireless receiver for temporary connection to a downloading device. The wireless signal downloading interface may also be in the form of a connection to the wireless communications device used for sending position information. The downloading interface may also be for permitting downloading of at least one programming instruction for the multi-vehicle compatible controller, in some embodiments.

[0015] The corresponding at least one vehicle code may be for reading from the at least one vehicle device, and/or for writing to the at least one vehicle device. Further, the multi-vehicle compatible tracking unit may comprise a remote transmitter. At least one vehicle remote control function responsive to the remote transmitter may be performed by the multi-vehicle compatible controller. For example, the at least one vehicle remote control function may include at least one of a vehicle security function, a remote keyless entry function, and a remote engine starting function. Also, the wireless position determining device may comprise a Global Positioning System (GPS) receiver. A tracking unit may also include a common housing for its various components.

[0016] A method aspect is for using a multi-vehicle compatible tracking unit for a vehicle comprising a vehicle data bus extending throughout the vehicle. The multi-vehicle compatible tracking unit may include a vehicle position determining device, a wireless communications device, and a multi-vehicle compatible controller for cooperating with the vehicle position determining device and the wireless communications device to send vehicle position information. The multi-vehicle compatible controller may be coupled to the vehicle data bus for connection thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality of thereof for different vehicles. The method may include downloading the enabling data related to at least one corresponding vehicle device code for use by the multi-vehicle compatible controller via a downloading interface.

BRIEF DESCRIPTION OF THE DRAWINGS

[0017] FIG. 1 is a simplified block diagram of a vehicle tracking system in accordance with the present invention.

[0018] FIG. 2 is a more detailed block diagram of the vehicle tracking unit as shown in FIG. 1.

[0019] FIG. 3 is a more detailed block diagram of the monitoring station as shown in FIG. 1.

[0020] FIG. 4 is a flowchart for operation of the vehicle tracking system as shown in FIG. 1 illustrating a vehicle stolen alert.

[0021] FIGS. 5A-5C are a flowchart for operation of the vehicle tracking system as shown in FIG. 1 illustrating a vehicle alarm sounding alert.

[0022] FIG. 6 is a flowchart for operation of the vehicle tracking system as shown in FIG. 1 illustrating a vehicle speeding alert.

[0023] FIG. 7 is a flowchart for operation of the vehicle tracking system as shown in FIG. 1 illustrating an unauthorized transmitter learned alert.

[0024] FIG. 8 is a flowchart for operation of the vehicle tracking system as shown in FIG. 1 illustrating a low battery alert.

[0025] FIG. 9 is a flowchart for operation of the vehicle tracking system as shown in FIG. 1 illustrating a GPS or cellular unit failure alert.

[0026] FIG. 10 is a simplified block diagram of a multi-vehicle compatible tracking unit in accordance with

the invention.

[0027] FIG. 11 is a more detailed block diagram of an embodiment of the downloading interface as shown in FIG. 10.

[0028] FIG. 12 is a more detailed block diagram of another embodiment of a downloading interface as shown in FIG. 10.

[0029] FIG. 13 is a more detailed block diagram of yet another embodiment of the downloading interface as shown in FIG. 10.

[0030] FIG. 14 is a flowchart showing a method in accordance with the invention.

[0031] FIG. 15 is a flowchart showing another embodiment of a method in accordance with the invention.

DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS

[0032] The present invention will now be described more fully hereinafter with reference to the accompanying drawings in which preferred embodiments of the invention are shown. This invention may, however, be embodied in many different forms and should not be construed as limited to the illustrated embodiments set forth herein. Rather, these embodiments are provided so that this disclosure will be thorough and complete, and will fully convey the scope of the invention to those skilled in the art. Like numbers refer to like elements throughout, and prime notation and multiple prime notation are used to indicate similar elements in alternate embodiments.

[0033] Referring to FIGS. 1-3, the vehicle tracking system **20** in accordance with the invention is now initially described. The vehicle system **20** illustratively includes a vehicle tracking unit **25** to be mounted in the vehicle **21** and a monitoring station **30** which is remote from the vehicle and which is typically in a fixed location. In the illustrated embodiment, the vehicle tracking unit **25** interfaces with various vehicle devices, such as may include security sensors, door locks, etc. as will be appreciated by those skilled in the art.

[0034] The vehicle tracking unit **25** is also illustratively connected to a separate vehicle security system **27** as may already be installed in the vehicle **21**, from the factory or installed as an aftermarket product. Those of skill in the art will appreciate that in some embodiments of the vehicle tracking system **20** a separate vehicle security system **27** may not be needed, and/or various features thereof can be readily incorporated in the vehicle tracking unit **25**.

[0035] The monitoring station **30** may typically service a number of subscribers **31**. As shown perhaps best in FIG. 3, the monitoring station **30** may include a user interface, such as the schematically illustrated telephone network interface **33** and the internet interface **34** which are schematically coupled to a telephone **35**, and a computer **36**, respectively. Of course in other embodiments, other interfaces may be used and only one of the illustrated interfaces may be needed. Those of skill in the art will also recognize that messages may be sent to a subscriber or user via preprogrammed voice messages, e-mail messages, facsimile messages, pager alerts, etc. In addition commands or instructions from the subscriber can also be input to the monitoring station **30** via the telephone network interface **33** and/or the internet interface **34**, from the subscribers telephone **35** or computer **36**.

[0036] The monitoring station **30** is illustratively connected to a cellular telephone tower **32** which, in turn, may communicate with the vehicle tracking unit **25** in some embodiments. Of course, in other embodiments other communications approaches are also contemplated, such as, for example, including satellite communications.

[0037] The monitoring station **30** may typically include the necessary modems, and other communications electronics, and computers for its functions which are described in greater detail below. The configuration of such components and their details will be readily apparent to those skilled in the art. Accordingly, no further discussion of these details is needed.

[00

Total of 16% of description loaded.

Classifications

IPC

G01C21/00

CPC

G08G1/20
B60R25/04
B60R25/045
B60R25/102
B60R25/104
B60R25/33
B60R2325/202
B60R2325/205
B60W2550/402
G07C5/008
G08G1/127
G08G1/205

US Class

701/36
382/104
455/575.9
701/29.3
701/29.6

ECLA

G08G1/20
B60R25/04
B60R25/045
B60R25/102
B60R25/104
B60R25/33
G07C5/00T
G08G1/127
G08G1/20B

ICO

L60R325:20B
L60R325:20D

L60W550:40A

Persons

Original Assignees

Original	Standardized	Normalized
Omega Patents, L.L.C.	OMEGA PATENTS	

Current Assignees

Original	Standardized	Normalized
OMEGA PATENTS, L.L.C.	OMEGA PATENTS	

Inventor(s)	Kenneth E. Flick
Legal representative(s)	Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A.

Legal information

Status

Event	Date
Granted	10/04/2011
Filed	07/03/2007

Ownership

Date from	Date to	Name	Standardized	Normalized
07/02/2007		OMEGA PATENTS, L.L.C.	OMEGA PATENTS	

Payment status

Date	Payment status	Description
03/18/2015	Fee paid	PAYMENT OF MAINTENANCE FEE, 4TH YEAR, LARGE ENTITY.

Litigation

Date	Docket number	Comments	Judgement
07/21/2017	1:17cv2769	Omega Patents, Llc V. Enfora, Inc., Filed July 21, 2017, D.C. N.D. Georgia, Doc. No. 1:17cv2769	
12/20/2013	6:13cv1950	Omega Patents, LLC v. Calamp Corp., Filed December 20, 2013, D.C. M.D. Florida, Doc. No. 6:13cv1950	ORDER denying 216 CalAmp's Renewed Motion for Judgment as a Matter of Law and for a New Trial; denying 228 CalAmp's Supplemental Renewed Motion for Judgment as a Matter of Law, for a New Trial, and to Vacate the Judgment. Signed by Judge Paul G. Byron on 11/14/2017. (JRJ)
02/28/2013	1:13cv646	Omega Patents, LLC v. Enfora, Inc., Filed February 28, 2013, D.C. N.D. Georgia, Doc. No. 1:13cv646	

Lexis Advance® Research | More

Select Category
Secondary... 0

Results for: 8032278 OR 8,032,278

Actions

Filters

Secondary Materials (0)

No documents found in **Secondary Materials** .

Try the following:

Review your results in the other categories.

Modify your search (edit or remove some search terms or add synonyms).

Check for spelling errors.

Use the options available from the **Actions** menu above to modify your search.

Note: Some content may not be visible based on the restrictions of your subscription.

About LexisNexis® | Privacy Policy | Terms & Conditions | Sign Out | Copyright © 2018 LexisNexis. All rights reserved.

Lexis Advance®
Research

Results for: 8032278 OR 8,032,278

News (6) Sort by: Relevance

1. ### US Patent Issued to Omega Patents on Oct. 4 for "Vehicle Tracking Unit with Downloadable Codes and Associated Methods" (Georgia Inventor)

US Fed News Oct 10, 2011 267 words
... under Application No. 11/773,272. For further information please visit: http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&p=1&u=%2Fnetahtml%2FPTO%2Fsearch-bool.html&r=1&f=G&l=50&co1=AND&d=PTXT&s1=**8032278**&OS=**8032278**&RS=**8032278** For any query with respect to this article or any ...
... Oct. 10 -- United States Patent no. **8,032,278** , issued on Oct. 4, was assigned to Omega Patents ...

2. ### U.S. Patents Awarded to Inventors in Georgia (Oct. 6)

Targeted News Service Oct 06, 2011 2486 words Targeted News Service Targeted News Service
... The full-text of the patent can be found at http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&p=1&u=%2Fnetahtml%2FPTO%2Fsearch-bool.html&r=1&f=G&l=50&co1=AND&d=PTXT&s1=**8,032,278**&OS=**8,032,278**&RS=**8,032,278** Written by Satyaban Rath; edited by Hemanta Panigrahi. *** Emory ...
... -- Omega Patents, Douglasville, Ga., has been assigned a patent (**8,032,278**) developed by Kenneth E. Flick, Douglasville, Ga., for "vehicle tracking ...

3. ### Omega Patents Assigned Patent

Targeted News Service Oct 06, 2011 282 words Targeted News Service
... The full-text of the patent can be found at http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&p=1&u=%2Fnetahtml%2FPTO%2Fsearch-bool.html&r=1&f=G&l=50&co1=AND&d=PTXT&s1=**8,032,278**&OS=**8,032,278**&RS=**8,032,278** Written by Satyaban Rath; edited by Hemanta Panigrahi. For more ...
... -- Omega Patents, Douglasville, Ga., has been assigned a patent (**8,032,278**) developed by Kenneth E. Flick, Douglasville, Ga. , for ...

4. ### Omega Patents Wraps up One Case and Launches Another

Newstex Blogs Mar 11, 2013 476 words
... Patent No. 6,346,876[6], U.S. Patent No. 7,671,727[7], U.S. Patent No. **8,032,278** [8], and U.S. Patent No. 8,362,886[9]. According to the ...

5.

District Court Rules Plaintiff Need Not Come Forward with Evidence of Priority Date Earlier than Patent Application Until Defendant Produces Clear and Convincing Evidence of Invalidating Prior Art and Summary Chart Is Not Sufficient

Newstex Blogs Feb 03, 2016 185 words Jeffer Mangels Butler Mitchell LLP
... 7,671,727 ("the '727 Patent"), and U.S. Patent No. **8,032,278** ("the '278 Patent"). The patents relate to control systems for ...

6. PTO Litigation Center Report - September 15, 2015

Newstex Blogs Sep 15, 2015 515 words Sterne Kessler Goldstein Fox
... 3600<nl/>Newly-Posted Reexam Requests<nl/>Control # - 90/013,587<nl/>Date - 9/14/2015<nl/>Patent # - **8,032,278** <nl/>Inventor - FLICK, Kenneth E.<nl/>Assignee - OMEGA PATENTS, L.L.C. <nl/>Title ...

Content type: News
Terms: 8032278 OR 8,032,278
Search Type: Boolean - Fewer Results
Narrow By: Sources: News
Date and Time: Nov 28, 2018 07:43:00 a.m. EST

LexisNexis® About LexisNexis® Privacy Policy Terms & Conditions Sign Out Copyright © 2018 LexisNexis. All rights reserved. RELX Group™

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

BIB DATA SHEET

CONFIRMATION NO. 8717

SERIAL NUMBER	FILING or 371(c) DATE RULE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
90/013,851	10/28/2016	701	3992	C13-03896.RE2

APPLICANTS

INVENTORS

8032278, Residence Not Provided;
OMEGA PATENTS, L.L.C. (PATENT OWNER), DOUGLASVILLE, GA;
~~DAVID H. KAVEH (3RD PTY REQ.), ANAHEIM, CA;~~
~~KPPB LLP, ANAHEIM, CA~~

**** CONTINUING DATA ***************************

This application is a REX of 11/773,272 07/03/2007 PAT 8032278
which is a CIP of 11/076,259 03/09/2005 PAT 7720597
which is a CON of 10/383,496 03/07/2003 PAT 7149623
which is a CON of 09/859,972 05/17/2001 PAT 6606561
which claims benefit of 60/264,811 01/29/2001
and claims benefit of 60/258,005 12/22/2000
and claims benefit of 60/251,552 12/06/2000
and claims benefit of 60/252,125 11/20/2000
and claims benefit of 60/236,890 09/29/2000
and claims benefit of 60/246,463 11/07/2000
and claims benefit of 60/222,777 08/03/2000
and claims benefit of 60/205,178 05/17/2000

**** FOREIGN APPLICATIONS ***************************

**** IF REQUIRED, FOREIGN FILING LICENSE GRANTED ****

Foreign Priority claimed ❑ Yes ☑ No 35 USC 119(a-d) conditions met ❑ Yes ☑ No Verified and Acknowledged /KARIN M REICHLE/ Examiner's Signature	❑ Met after Allowance Initials	STATE OR COUNTRY	SHEETS DRAWINGS	TOTAL CLAIMS	INDEPENDENT CLAIMS
				22	3

ADDRESS

CHRISTOPHER F. REGAN, ESQUIRE
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
P. O. BOX 3791
ORLANDO, FL 32802-3791
UNITED STATES

TITLE

Vehicle Tracking Unit with Downloadable Codes and Associated Methods

FILING FEE RECEIVED		
12000	FEES: Authority has been given in Paper No._____ to charge/credit DEPOSIT ACCOUNT No._____ for following:	❑ All Fees ❑ 1.16 Fees (Filing) ❑ 1.17 Fees (Processing Ext. of time) ❑ 1.18 Fees (Issue) ❑ Other _____

BIB (Rev. 05/07).

		❑ Credit

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	90/013,851	8032278
	Examiner	**Art Unit**
	Karin M Reichle	3992

CPC						
Symbol					**Type**	**Version**
H03F	/	3	/	45	F	2013-01-01
B60R	/	25	/	045	I	2013-01-01
G08G	/	1	/	127	I	2013-01-01
B60R	/	25	/	04	I	2013-01-01
G07C	/	5	/	008	I	2013-01-01
B60R	/	25	/	104	I	2013-01-01
B60R	/	25	/	33	I	2013-01-01
B60R	/	25	/	102	I	2013-01-01
G08G	/	1	/	20	I	2013-01-01
G08G	/	1	/	205	I	2013-01-01
B60R	/	2325	/	202	A	2013-01-01
B60R	/	2325	/	205	A	2013-01-01
B60W	/	2550	/	402	A	2013-01-01

CPC Combination Sets							
Symbol					**Type**	**Set**	**Ranking**	**Version**
	/		/					

NONE		Total Claims Allowed:	
(Assistant Examiner)	(Date)	22	
/Karin Reichle/ Primary Examiner, Art Unit 3992	07 January 2019	O.G. Print Claim(s)	O.G. Print Figure
(Primary Examiner)	(Date)	1	2

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	90/013,851	8032278
	Examiner	Art Unit
	Karin M Reichle	3992

INTERNATIONAL CLASSIFICATION					
CLAIMED					
G01C	/	21	/	00	
	/		/		

NON-CLAIMED					
	/		/		

US ORIGINAL CLASSIFICATION	
CLASS	SUBCLASS
701	36

CROSS REFERENCES(S)						
CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)					
382	104					
382	104	988				
701	29.3	29.6				

NONE (Assistant Examiner) (Date)	Total Claims Allowed: 22	
/Karin Reichle/ Primary Examiner, Art Unit 3992 (Primary Examiner) (Date) 07 January 2019	O.G. Print Claim(s) 1	O.G. Print Figure 2

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	90/013,851	8032278
	Examiner	**Art Unit**
	Karin M Reichle	3992

☑ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

CLAIMS

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
	1		10		19										
	2		11		20										
	3		12		21										
	4		13		22										
	5		14												
	6		15												
	7		16												
	8		17												
	9		18												

NONE		**Total Claims Allowed:**	
(Assistant Examiner)	(Date)	22	
/Karin Reichle/ Primary Examiner, Art Unit 3992	07 January 2019	O.G. Print Claim(s)	O.G. Print Figure
(Primary Examiner)	(Date)	1	2

U.S. Patent and Trademark Office Part of Paper No.: 20181128

Reexamination	Application/Control No.	Applicant(s)/Patent Under Reexamination
	90/013,851	8032278
	Certificate Date	Certificate Number
		C2

Requester Correspondence Address: ☐ Patent Owner ☑ Third Party
KPPB LLP 2190 S. Towne Centre SUITE 300 ANAHEIM, CA 92806

LITIGATION REVIEW ☑	/KR/ (examiner initials)	07 January 2019 (date)
Case Name		Director Initials
Omega Patents, LLC v. Enfora, Inc., 1:17cv2769, CLOSED		
Omega Patents, LLC v. CalAmp Corp., 6:13cv1950, CLOSED		
Omega Patents, LLC v. Enfora, Inc., 1:13cv646, CLOSED		
Omega Patents, LLC v. CalAmp Corp., 18-1309		

COPENDING OFFICE PROCEEDINGS	
TYPE OF PROCEEDING	NUMBER
Reexam	90014121

	/K.R./ Primary Examiner.Art Unit 3992

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/013,851	10/28/2016	8032278	C13-03896.RE2	8717

7590 01/10/2019

CHRISTOPHER F. REGAN, ESQUIRE
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
P. O. BOX 3791
ORLANDO, FL 32802-3791

EXAMINER	
REICHLE, KARIN M	

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
01/10/2019	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DO NOT USE IN PALM PRINTER

(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

KPPB
2190 S. Towne Centre Place
Suite 300
Anaheim, CA 92806

EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. *90/013,851* .

PATENT UNDER REEXAMINATION *8032278* .

ART UNIT *3992* .

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

NOTICE OF INTENT TO ISSUE INTER PARTES REEXAMINATION CERTIFICATE	**Control No.** 90/013,851	**Patent Under Reexamination** 8032278
	Examiner Karin M Reichle	**Art Unit** 3992

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address. --

1. ☑ Prosecution on the merits is (or remains) closed in this inter partes reexamination proceeding. This proceeding is subject to reopening at the initiative of the Office or upon petition. *Cf.* 37 CFR 1.313(a). A Certificate will be issued in view of:
   a. ☐ The communication filed on _____ by _____ .
   b. ☐ Patent owner's failure to file an appropriate timely response to the Office action dated _____.
   c. ☐ The failure to timely file an Appeal with fee by all parties to the reexamination proceeding entitled to do so. 37 CFR 1.959 and 41.61
   d. ☐ The failure to timely file an Appellant's Brief with fee by all parties to the reexamination proceeding entitled to do so. 37 CFR 41.66(a).
   e. ☑ The decision on appeal by the ☑ Board of Patent Appeals and Interferences ☐ Court dated 13 November 2018
   f. ☐ Other: _____

2. ☑ The Reexamination Certificate will indicate the following:
   a. Change in the Specification: ☐ Yes ☐ No
   b. Change in the Drawings: ☐ Yes ☐ No
   c. Status of the Claims:
      (1) Patent claim(s) confirmed 1-22 .
      (2) Patent claim(s) amended (including dependent on amended claim(s)): _____
      (3) Patent claim(s) cancelled: _____ .
      (4) Newly presented claim(s) patentable: _____ .
      (5) Newly presented cancelled claims: _____ .
      (6) Patent claim(s) ☐ previously ☐ currently disclaimed: _____
      (7) Patent claim(s) not subject to reexamination: _____ .

3. ☑ Note the attached statement of reasons for patentability and/or confirmation. Any comments considered necessary by patent owner regarding reasons for patentability and/or confirmation must be submitted promptly to avoid processing delays. Such submission(s) should be labeled: "Comments On Statement of Reasons for Patentability and/or Confirmation."

4. ☐ Note attached NOTICE OF REFERENCE CITED, (PTO-892).

5. ☐ Note attached LIST OF REFERENCES CITED (PTO/SB/08 or PTO/SB/08 substitute).

6. ☐ The drawings filed on _____ is: ☐ approved ☐ disapproved.

7. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. § 119(a) - (d) or (f).
   a) ☐ All b) ☐ Some* c) ☐ None of the certified copies have
   ☐ been received.
   ☐ not been received.
   ☐ been filed in Application No. _____ .
   ☐ been filed in reexamination Control No. _____ .
   ☐ been received by the International Bureau in PCT Application No. _____ .
   * Certified copies not received: _____ .

8. ☐ Note Examiner's Amendment.

9. ☐ Other: _____ .

All correspondence relating to this *inter partes* reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of this Office action.

/Karin Reichle/ Primary Examiner, Art Unit 3992	/J.W./ Primary Examiner, Art Unit 3992

Reasons for NIRC Action

MPEP 1214.06, II states:

II. CLAIMS STAND ALLOWED

The appellant is not required to file a reply. The examiner issues the application or ex parte reexamination certificate on the claims which stand allowed. It is not necessary for the applicant or patent owner to cancel the rejected claims, since they may be canceled by the examiner in an examiner's amendment.

A Decision of the Patent Trial and Appeal Board was issued on November 13, 2018. The rejection of claims 1-22 was reversed. Prosecution is closed.

STATEMENT OF REASONS FOR PATENTABILITY AND/OR CONFIRMATION

The following is an examiner's statement of reasons for patentability and/or confirmation of the claims found patentable in this reexamination proceeding:

The reasons for confirmation are set forth in the Patent Trail and Appeal Board decision of November 13, 2018.

Any comments considered necessary by PATENT OWNER regarding the above statement must be submitted promptly to avoid processing delays. Such submission by the patent owner should be labeled: "Comments on Statement of Reasons for Patentability and/or Confirmation" and will be placed in the reexamination file.

Correspondence

All correspondence relating to this ex parte reexamination proceeding should be directed:

By Mail to: Mail Stop *Ex Parte* Reexam
Central Reexamination Unit
Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450

Alexandria, VA 22313-1450

By FAX to: (571) 273-9900
Central Reexamination Unit

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Registered users of EFS-Web may alternatively submit such correspondence via the electronic filing system EFS-Web, at https://efs.uspto.gov/efile/myportal/efs-registered. EFS-Web offers the benefit of quick submission to the particular area of the Office that needs to act on the correspondence. Also, EFS-Web submissions are "soft scanned" (i.e., electronically uploaded) directly into the official file for the reexamination proceeding, which offers parties the opportunity to review the content of their submissions after the "soft scanning" process is complete.

Any inquiry concerning this communication should be directed to the Central Reexamination Unit at telephone number 571-272-7705.

Other useful telephone numbers:

Reexamination Practice (571) 272-7703

/Karin Reichle/
Primary Examiner
Art Unit 3992

Conferees:

/J.W/
Primary Examiner, Art Unit 3992

/HETUL B PATEL/
Supervisory Patent Examiner, Art Unit 3992

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	90/013,851	8032278
	Examiner	Art Unit
	Karin M Reichle	3992

CPC - Searched*		
Symbol	Date	Examiner
None	01/07/2019	KMR

CPC Combination Sets - Searched*		
Symbol	Date	Examiner
None	01/07/2019	KMR

US Classification - Searched*			
Class	Subclass	Date	Examiner
None		01/07/2019	KMR

* See search history printout included with this form or the SEARCH NOTES box below to determine the scope of the search.

Search Notes		
Search Notes	Date	Examiner
Prosecution History set forth on BIB sheet reviewed. Also reviewed 90/013,659 and 90/013741 referred to in the Request.	11/16/2016, updated 3/20/2017	/KR/
Reviewed 90013832	3/20/2017	/KR/
Updated Review of prosecution history and related reexamination files referenced in 6/12/2017 response	6/29/2017	/KMR/
updated prior review and reviewed 90/014121	01/07/2019	KMR

Interference Search			
US Class/CPC Symbol	US Subclass/CPC Group	Date	Examiner
None		01/07/2019	KMR

/Karin Reichle/ Primary Examiner, Art Unit 3992	

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/013,851	10/28/2016	8032278	C13-03896.RE2	8717

7590 01/18/2019

CHRISTOPHER F. REGAN, ESQUIRE
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
P. O. BOX 3791
ORLANDO, FL 32802-3791

EXAMINER	
REICHLE, KARIN M	

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
01/18/2019	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DO NOT USE IN PALM PRINTER

(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

KPPB
2190 S. Towne Centre Place
Suite 300
Anaheim, CA 92806

EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. *90/013,851* .

PATENT UNDER REEXAMINATION *8032278* .

ART UNIT *3992* .

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

Ex Parte Reexamination Interview Summary	Control No.	Patent Under Reexamination	
	90/013,851	8032278	
	Examiner	Art Unit	AIA Status
	Karin M Reichle	3992	No

All participants (USPTO personnel, patent owner, patent owner's representative):

(1) Karin Reichle	(3) _____
(2) Jack Abid	(4) _____

Date of Interview: 15 January 2019

Type: a) ☑ Telephonic b) ☐ Video Conference
c) ☐ Personal (copy given to: 1) ☐ patent owner 2) ☐ patent owners representative)

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☑ No.
If Yes, brief description: _____

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☑ N/A.
Any other agreement(s) are set forth below under "Description of the general nature of what was agreed to..."

Claim(s) discussed: _____ .

Identification of prior art discussed: _____ .

Description of the general nature of what was agreed to if an agreement was reached, or any other comments:
See Continuation Sheet .

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims patentable, if available, must be attached. Also, where no copy of the amendments that would render the claims patentable is available, a summary thereof must be attached.)

A FORMAL WRITTEN RESPONSE TO THE LAST OFFICE ACTION MUST INCLUDE PATENT OWNER'S STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. (See MPEP § 2281). IF A RESPONSE TO THE LAST OFFICE ACTION HAS ALREADY BEEN FILED, THEN PATENT OWNER IS GIVEN **ONE MONTH** FROM THIS INTERVIEW DATE TO PROVIDE THE MANDATORY STATEMENT OF THE SUBSTANCE OF THE INTERVIEW (37 CFR 1.560(b)). THE REQUIREMENT FOR PATENT OWNERS STATEMENT CAN NOT BE WAIVED. **EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.550(c).**

/Karin Reichle/ Primary Examiner, Art Unit 3992		

cc: Requester (if third party requester)

Continuation of Description of the general nature of what was agreed to if an agreement was reached, or any other comments: Mr Abid left a voice mail for the Examiner on 1/11/2019 regarding the form PTOL-2068 , "NOTICE OF INTENT TO ISSUE INTER PARTES REEXAMINATION CERTIFICATE", included in the 1/10/ 2019 ex parte NIRC issued by the Office in the instant reexamination. Mr Abid correctly observed that such should have been the form PTOL-469, "Notice of Intent to Issue Ex Parte Reexamination Certificate", instead. However since all the information set forth in such 1/10/2019 NIRC other than the terminology "inter partes" is correct and following consultation with and approval by SPRE Hetul Patel and Mr. Abid, this summary is issued to correct the record and clarify that any such terminology "inter partes" in the 1/10/2019 should be read as "ex partes" instead.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of **KENNETH E. FLICK**	)	
	)	
Request for Reexamination of **U.S. PATENT NO. 8,032,278**	)	
	)	
Control No. **90/013,851**	)	Attorney Docket No.: **C13-03895(58106CIP1_REX2)**
	)	
Confirmation No. **8717**	)	
	)	Examiner: **K. Reichle**
Filing Date: **OCTOBER 28, 2016**	)	
	)	Art Unit: **3992**
For: **VEHICLE TRACKING UNIT WITH DOWNLOADABLE CODES AND ASSOCIATED METHODS**	)	

INTERVIEW SUMMARY FOR TELEPHONIC INTERVIEW OF JANUARY 15, 2019

EFILE
Commissioner for Patents

The Patent Owner thanks the U.S. Patent and Trademark Office and the Examiner for extending all courtesies to the Patent Owner's Representative during the telephonic voicemail exchange of January 15, 2019.

During the telephonic voicemail exchange, Examiner Karin Reichle was present on behalf of the USPTO, and Attorney Jack G. Abid (Reg. No. 58,237) was present on behalf of the Patent Owner.

The Patent Owner and the Examiner noted the minor error in the Notice of Intent to Issue Reexamination Certificate issued on January 10, 2019. In particular, the Notice used the form for the *Inter Partes* Reexamination rather than *Ex Parte* Reexamination. It was agreed that the Notice will be treated as a Notice of Intent to Issue *Rx Parte* Reexamination Certificate.

Respectfully submitted,

/JACK G. ABID/

JACK GEORGE ABID
Reg. No. 58,237
Allen, Dyer, Doppelt, Milbrath
& Gilchrist, P.A.
255 S. Orange Avenue, Suite 1401
Post Office Box 3791
Orlando, Florida 32802
407-841-2330
407-841-2343 fax
Attorney for the Patent Owner

Electronic Acknowledgement Receipt

EFS ID:	34916378
Application Number:	90013851
International Application Number:	
Confirmation Number:	8717
Title of Invention:	Vehicle Tracking Unit with Downloadable Codes and Associated Methods
First Named Inventor/Applicant Name:	8032278
Correspondence Address:	CHRISTOPHER F. REGAN, ESQUIRE ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A. P. O. BOX 3791 - ORLANDO FL 32802-3791 US 407-841-2330 -
Filer:	Jack G. Abid/Sheryl Scheibe
Filer Authorized By:	Jack G. Abid
Attorney Docket Number:	C13-03896.RE2
Receipt Date:	22-JAN-2019
Filing Date:	28-OCT-2016
Time Stamp:	11:15:40
Application Type:	Reexam (Patent Owner)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Applicant summary of interview with examiner	ss58106cip1rex2sum.pdf	56963 9537cc3ab62095dfbcc318a3ca4de883e90b0935	no	3

Warnings:

The page size in the PDF is too large. The pages should be 8.5 x 11 or A4. If this PDF is submitted, the pages will be resized upon entry into the Image File Wrapper and may affect subsequent processing

Information:

Total Files Size (in bytes):	56963

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

US008032278C2

(12) EX PARTE REEXAMINATION CERTIFICATE (11454th)
United States Patent
Flick

(10) Number: US 8,032,278 C2
(45) Certificate Issued: Feb. 6, 2019

(54) **VEHICLE TRACKING UNIT WITH DOWNLOADABLE CODES AND ASSOCIATED METHODS**

(75) Inventor: **Kenneth E. Flick**, Douglasville, GA (US)

(73) Assignee: **OMEGA PATENTS, L.L.C.**, Douglasville, GA (US)

Reexamination Request:
No. 90/013,851, Oct. 28, 2016

Reexamination Certificate for:
Patent No.: **8,032,278**
Issued: **Oct. 4, 2011**
Appl. No.: **11/773,272**
Filed: **Jul. 3, 2007**

Reexamination Certificate C1 8,032,278 issued Dec. 28, 2016

Related U.S. Application Data

(63) Continuation-in-part of application No. 11/076,259, filed on Mar. 9, 2005, now Pat. No. 7,720,597, which is a continuation of application No. 10/383,496, filed on Mar. 7, 2003, now Pat. No. 7,149,623, which is a continuation of application No. 09/859,972, filed on May 17, 2001, now Pat. No. 6,606,561.

(60) Provisional application No. 60/264,811, filed on Jan. 29, 2001, provisional application No. 60/258,005, filed on Dec. 22, 2000, provisional application No. 60/251,552, filed on Dec. 6, 2000, provisional application No. 60/252,125, filed on Nov. 20, 2000, provisional application No. 60/236,890, filed on Sep. 29, 2000, provisional application No. 60/246,463, filed on Nov. 7, 2000, provisional application No. 60/222,777, filed on Aug. 3, 2000, provisional application No. 60/205,178, filed on May 17, 2000.

(51) **Int. Cl.**

G01C 21/00	(2006.01)
H03F 3/45	(2006.01)
B60R 25/045	(2013.01)
G08G 1/127	(2006.01)
B60R 25/04	(2013.01)
G07C 5/00	(2006.01)
B60R 25/104	(2013.01)
B60R 25/33	(2013.01)
B60R 25/102	(2013.01)
G08G 1/00	(2006.01)

(52) **U.S. Cl.**
CPC ***H03F 3/45*** (2013.01); ***B60R 25/04*** (2013.01); ***B60R 25/045*** (2013.01); ***B60R 25/102*** (2013.01); ***B60R 25/104*** (2013.01); ***B60R 25/33*** (2013.01); ***G07C 5/008*** (2013.01); ***G08G 1/127*** (2013.01); ***G08G 1/20*** (2013.01); ***G08G 1/205*** (2013.01); *B60R 2325/202* (2013.01); *B60R 2325/205* (2013.01); *B60W 2550/402* (2013.01)

(58) **Field of Classification Search**
None
See application file for complete search history.

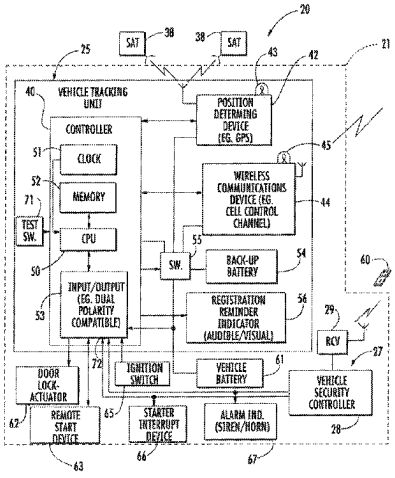
(56) **References Cited**

To view the complete listing of prior art documents cited during the proceeding for Reexamination Control Number 90/013,851, please refer to the USPTO's public Patent Application Information Retrieval (PAIR) system under the Display References tab.

Primary Examiner — Karin Reichle

(57) **ABSTRACT**

A multi-vehicle compatible tracking unit is for a vehicle including a vehicle data bus extending throughout the vehicle. The vehicle tracking unit may include a vehicle position determining device, a wireless communications device, and a multi-vehicle compatible controller for cooperating with the vehicle position determining device and the wireless communications device to send vehicle position information. The multi-vehicle compatible controller may be coupled to the vehicle data bus for communication thereover with at least one vehicle device using at least one corresponding vehicle device code from among a plurality thereof for different vehicles. A downloading interface may be included for permitting downloading of enabling data related to the at least one corresponding vehicle device code for use by the multi-vehicle compatible controller.



EX PARTE REEXAMINATION CERTIFICATE

NO AMENDMENTS HAVE BEEN MADE TO THE PATENT

AS A RESULT OF REEXAMINATION, IT HAS BEEN DETERMINED THAT:

The patentability of claims **1-22** is confirmed.

* * * * *

Electronic Acknowledgement Receipt

EFS ID:	41313063
Application Number:	90013851
International Application Number:	
Confirmation Number:	8717
Title of Invention:	Vehicle Tracking Unit with Downloadable Codes and Associated Methods
First Named Inventor/Applicant Name:	8032278
Correspondence Address:	CHRISTOPHER F. REGAN, ESQUIRE ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A. P. O. BOX 3791 - ORLANDO FL 32802-3791 US 407-841-2330 -
Filer:	Glen Madison Kellett/Stacy Tebo
Filer Authorized By:	Glen Madison Kellett
Attorney Docket Number:	C13-03896.RE2
Receipt Date:	07-DEC-2020
Filing Date:	28-OCT-2016
Time Stamp:	15:53:57
Application Type:	Reexam (Third Party)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Power of Attorney	324720_POA.pdf	738356 07402048dcc680615cd826d7773d0e0edb3af3ee	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	738356		

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

PTO/AIA/82A (07-13)
Approved for use through 03/31/2021. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FOR POWER OF ATTORNEY TO ONE OR MORE REGISTERED PRACTITIONERS

NOTE: This form is to be submitted with the Power of Attorney by Applicant form (PTO/AIA/82B) to identify the application to which the Power of Attorney is directed, in accordance with 37 CFR 1.5, unless the application number and filing date are identified in the Power of Attorney by Applicant form. If neither form PTO/AIA/82A nor form PTO/AIA82B identifies the application to which the Power of Attorney is directed, the Power of Attorney will not be recognized in the application.

Application Number	90013851
Filing Date	October 28, 2016
First Named Inventor	
Title	Vehicle Tracking Unit with Downloadable Codes and Associated Methods
Art Unit	Unknown
Examiner Name	Unknown
Attorney Docket Number	C13-03896.RE2/324720

SIGNATURE of Applicant or Patent Practitioner

Signature	/GLEN M. KELLETT/	Date (Optional)	2020-12-07
Name	GLEN M. KELLETT	Registration Number	60202
Title (if Applicant is a juristic entity)	Attorney of Record		
Applicant Name (if Applicant is a juristic entity)			

NOTE: This form must be signed in accordance with 37 CFR 1.33. See 37 CFR 1.4(d) for signature requirements and certifications. If more than one applicant, use multiple forms.

☑ *Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.131, 1.32, and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

OMEGA EXHIBIT 2036

PTO/AIA/82B (07-13)
Approved for use through 03/31/2021. OMB 0651-0035
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

POWER OF ATTORNEY BY APPLICANT

I hereby revoke all previous powers of attorney given in the application identified in either the attached transmittal letter or the boxes below.

Application Number	Filing Date

(Note: The boxes above may be left blank if information is provided on form PTO/AIA/82A.)

☑ I hereby appoint the Patent Practitioner(s) associated with the following Customer Number as my/our attorney(s) or agent(s), and to transact all business in the United States Patent and Trademark Office connected therewith for the application referenced in the attached transmittal letter (form PTO/AIA/82A) or identified above: 23643

OR

☐ I hereby appoint Practitioner(s) named in the attached list (form PTO/AIA/82C) as my/our attorney(s) or agent(s), and to transact all business in the United States Patent and Trademark Office connected therewith for the patent application referenced in the attached transmittal letter (form PTO/AIA/82A) or identified above. (Note: Complete form PTO/AIA/82C.)

Please recognize or change the correspondence address for the application identified in the attached transmittal letter or the boxes above to:

☑ The address associated with the above-mentioned Customer Number

OR

☐ The address associated with Customer Number:

OR

☐ Firm or Individual Name					
Address					
City		State		Zip	
Country					
Telephone		Email			

I am the Applicant (if the Applicant is a juristic entity, list the Applicant name in the box):

CALAMP CORP.

☐ Inventor or Joint Inventor (title not required below)

☐ Legal Representative of a Deceased or Legally Incapacitated Inventor (title not required below)

☑ Assignee or Person to Whom the Inventor is Under an Obligation to Assign (provide signer's title if applicant is a juristic entity)

☐ Person Who Otherwise Shows Sufficient Proprietary Interest (e.g., a petition under 37 CFR 1.46(b)(2) was granted in the application or is concurrently being filed with this document) (provide signer's title if applicant is a juristic entity)

SIGNATURE of Applicant for Patent

The undersigned (whose title is supplied below) is authorized to act on behalf of the applicant (e.g., where the applicant is a juristic entity).

Signature		Date (Optional)	
Name	Stephen M. Moran, Esq.		
Title	Senior Vice President, General Counsel & Secretary		

NOTE: Signature - This form must be signed by the applicant in accordance with 37 CFR 1.33. See 37 CFR 1.4 for signature requirements and certifications. If more than one applicant, use multiple forms.

☑ Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.131, 1.32, and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
90/013,851	10/28/2016	8032278	C13-03896.RE2

CONFIRMATION NO. 8717

POWER OF ATTORNEY NOTICE

CHRISTOPHER F. REGAN, ESQUIRE
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
P. O. BOX 3791
ORLANDO, FL 32802-3791

OC000000121877146

Date Mailed: 12/09/2020

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/07/2020.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Questions about the contents of this notice and the requirements it sets forth should be directed to the Office of Data Management, Application Assistance Unit, at **(571) 272-4000** or **(571) 272-4200** or **1-888-786-0101**.

/pflewis/

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
90/013,851	10/28/2016	8032278	C13-03896.RE2

CONFIRMATION NO. 8717

23643
Barnes & Thornburg LLP (IN)
11 S. Meridian Street
Indianapolis, IN 46204

POA ACCEPTANCE LETTER

OC000000121877177

Date Mailed: 12/09/2020

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/07/2020.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Questions about the contents of this notice and the requirements it sets forth should be directed to the Office of Data Management, Application Assistance Unit, at **(571) 272-4000** or **(571) 272-4200** or **1-888-786-0101**.

/pflewis/

In re Patent of
Kenneth E. FLICK
Reexamination Control No. **90/013,851**
Filed: **OCTOBER 29, 2016**
_____/

CERTIFICATE OF SERVICE

Certificate of Service in compliance with 37 C.F.R. §1.530(c)

Pursuant to 37 C.F.R. §§1.530(c), 1.248, I hereby certify that on January 22, 2019, a complete copy of this Amendment is being served via First Class U.S. Mail upon Third Party Requester at the correspondence address as shown in PAIR:

KPPB LLP
2190 S. TOWNE CENTRE PLACE
SUITE 300
ANAHEIM, CA 92806

Respectfully submitted,

/JACK G. ABID/

_____
JACK GEORGE ABID
Reg. No. 58,237
Allen, Dyer, Doppelt +
Gilchrist, P.A.
255 S. Orange Avenue, Suite 1401
Post Office Box 3791
Orlando, Florida 32802
407-841-2330
407-841-2343 fax
Attorney for the Patent Owner

In Re Patent Application of:
Kenneth E. FLICK
Reexamination Control No. **90/013,851**
Filed: **OCTOBER 29, 2016**
_____/

CERTIFICATE OF SERVICE

Certificate of Service in compliance with 37 C.F.R. §1.530(c)

Pursuant to 37 C.F.R. §§1.530(c), 1.248, I hereby certify that on February 27, 2018, a complete copy of this Amendment is being served via First Class U.S. Mail upon Third Party Requester at the correspondence address as shown in PAIR:

KPPB LLP
2400 EAST KATELLA AVENUE
SUITE 1050
ANAHEIM, CA 92806

Respectfully submitted,

JACK GEORGE ABID
Reg. No. 58,237
Allen, Dyer, Doppelt + Gilchrist, P.A.
255 S. Orange Avenue, Suite 1401
Post Office Box 3791
Orlando, Florida 32802
407-841-2330
407-841-2343 fax
Attorney for the Patent Owner

In Re Patent Application of:
Kenneth E. FLICK
Reexamination Control No. **90/013,851**
Filed: **OCTOBER 29, 2016**
_____/

CERTIFICATE OF SERVICE

Certificate of Service in compliance with 37 C.F.R. §1.530(c)

Pursuant to 37 C.F.R. §§1.530(c), 1.248, I hereby certify that on January 17, 2018, a complete copy of this Amendment is being served via First Class U.S. Mail upon Third Party Requester at the correspondence address as shown in PAIR:

KPPB LLP
2400 EAST KATELLA AVENUE
SUITE 1050
ANAHEIM, CA 92806

Respectfully submitted,

JACK GEORGE ABID
Reg. No. 58,237
Allen, Dyer, Doppelt +
Gilchrist, P.A.
255 S. Orange Avenue, Suite 1401
Post Office Box 3791
Orlando, Florida 32802
407-841-2330
407-841-2343 fax
Attorney for the Patent Owner

CERTIFICATE OF SERVICE

Certificate of Service in compliance with 37 C.F.R. §1.530(c)

Pursuant to 37 C.F.R. §§1.530(c), 1.248, I hereby certify that on July 13, 2018, a complete copy of this Filing is being served via First Class U.S. Mail upon Third Party Requester at the correspondence address as shown in PAIR:

KPPB LLP
2400 EAST KATELLA AVENUE
SUITE 1050
ANAHEIM, CA 92806

Respectfully submitted,

Jack Abid

CERTIFICATE OF SERVICE

Certificate of Service in compliance with 37 C.F.R. §1.530(c)

Pursuant to 37 C.F.R. §§1.530(c), 1.248, I hereby certify that on July 13, 2018, a complete copy of this Filing is being served via First Class U.S. Mail upon Third Party Requester at the correspondence address as shown in PAIR:

KPPB LLP
2400 EAST KATELLA AVENUE
SUITE 1050
ANAHEIM, CA 92806

Respectfully submitted,

Jack Abid