

**United States Patent and Trademark Office
Before the Patent Trial and Appeal Board**

Verizon Connect Inc.
Petitioner

v.

Omega Patents, LLC
Patent Owner

No. IPR 2023-01162
U.S. Patent No.: 8,032,278
Petitioner's Demonstrative Exhibits
Hearing: November 20, 2024

U.S. Patent 8,032,278

First Instituted Ground of Unpatentability

Untimely 325(d) Challenge

Motivation to Combine

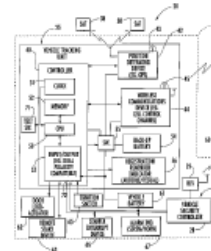
Secondary Considerations

U.S. Patent No. 8,032,278

Filed: Jul. 3, 2007

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

(12)	United States Patent Flick	(10) Patent No.: US 8,032,278 B2
		(45) Date of Patent: Oct. 4, 2011
(54)	VEHICLE TRACKING UNIT WITH DOWNLOADABLE CODES AND ASSOCIATED METHODS	(58) Field of Classification Search 701/36, 701/207-209; 340/500, 506, 515, 531, 533-534 See application file for complete search history.
(75)	Inventor: Kenneth E. Flick , Douglasville, GA (US)	(56) References Cited
(73)	Assignee: Omega Patents, L.L.C. , Douglasville, GA (US)	U.S. PATENT DOCUMENTS 5,223,844 A 6/1993 Mansell et al. 342/357 (Continued)
(*)	Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(h) by 840 days.	FOREIGN PATENT DOCUMENTS DE 19607017 A1 * 8/1997 (Continued)
(21)	Appl. No.: 11/773,272	OTHER PUBLICATIONS Intelligent Object-Tracking using Sensor Networks; Sridhar, P.; Madni, A. M.; Jumbhidi, M.; Sensors Applications Symposium, 2007. SAS'07. IEEE; Feb. 6-8, 2007 pp. 1-5; Digital Object Identifier 10.1109/SAS.2007.374384.* (Continued)
(22)	Filed: Jul. 3, 2007	
(65)	Prior Publication Data US 2007/0279283 A1 Dec. 6, 2007	
	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.	<i>Primary Examiner</i> — Cuong H Nguyen (74) <i>Attorney, Agent, or Firm</i> — Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A.
(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.	(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.
(51)	Int. Cl. G01C 21/00 (2006.01)	
(52)	U.S. Cl. 701/36; 701/33; 382/104; 382/988; 455/575.9	
		22 Claims, 13 Drawing Sheets



Paper 2 (IPR Petition), at 2, 4, 6-7; Ex. 1001

Each Independent Claim is Directed to the Same Four Components

Claim 1	Claim 13	Claim 18
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 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 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 vehicle position determining device;	a vehicle position determining device;
a wireless communications device;	a wireless communications 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 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 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	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.	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

U.S. Patent 8,032,278

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First Instituted Ground of Unpatentability

**U.S. Patent No. 6,756,885 to Flick
("Flick '885")**

+

**U.S. Patent No. 6,606,561 to Flick
"Flick '561"**

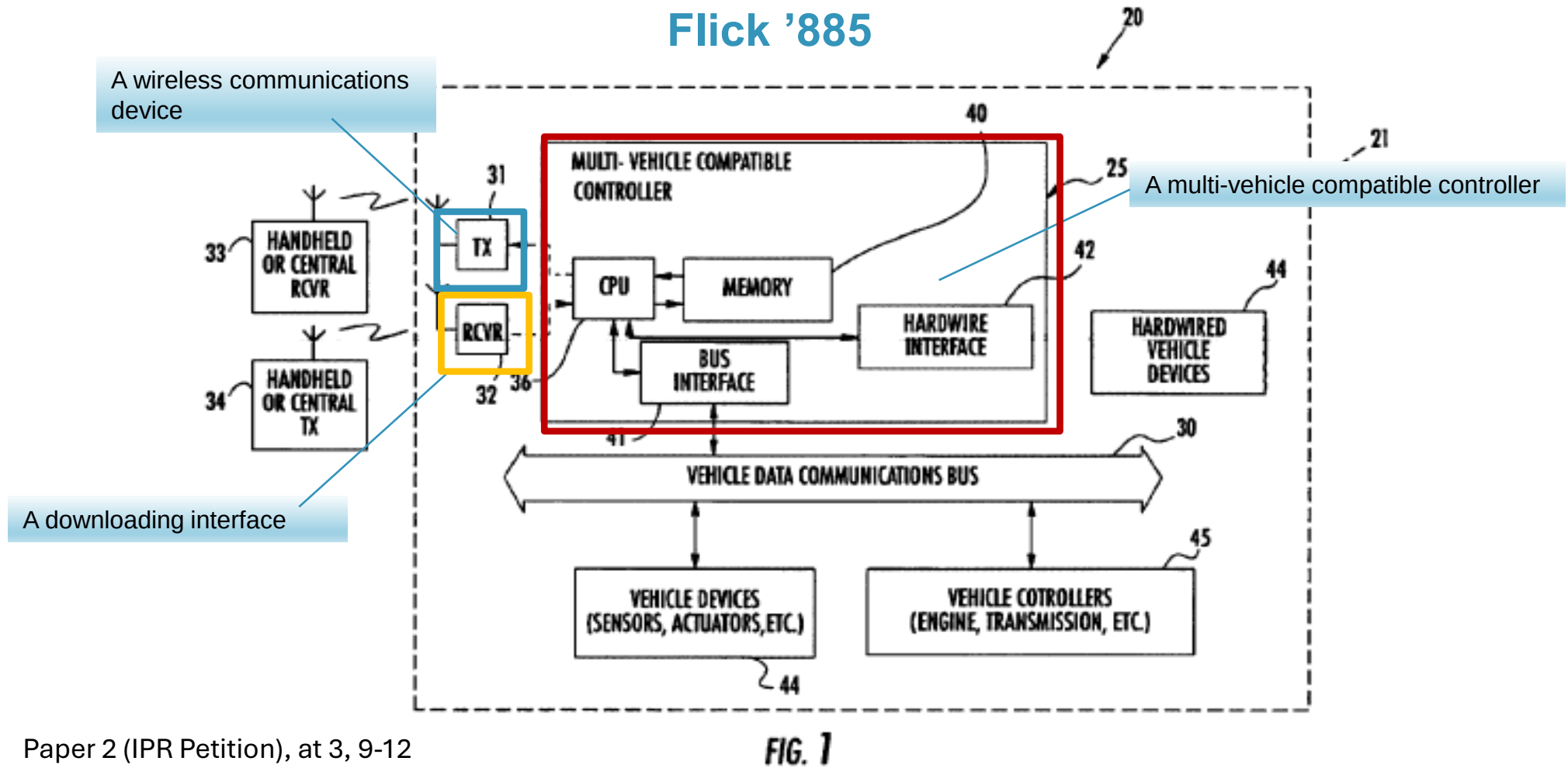
Paper 12 (Decision Granting Institution of IPR), at 28-41

First Instituted Ground of Unpatentability

- The Board instituted review of Claims 1-22 based on the combination of Flick '885 and Flick '561
- Patent Owner does not dispute that all limitations of Claims 1-22 are disclosed in Flick '885 and Flick '278. See Paper 16 (PO Response); Paper 25 (PO Sur-reply).

Paper 2 (IPR Petition), at 6-9

Three of the Four Components Are Disclosed in Flick '885



Paper 2 (IPR Petition), at 3, 9-12

Figure 1 of Flick '885 Was Incorporated Almost Identically into the '278 Patent Without the Inventor Disclosing the Source of This Figure to the USPTO

Flick '885

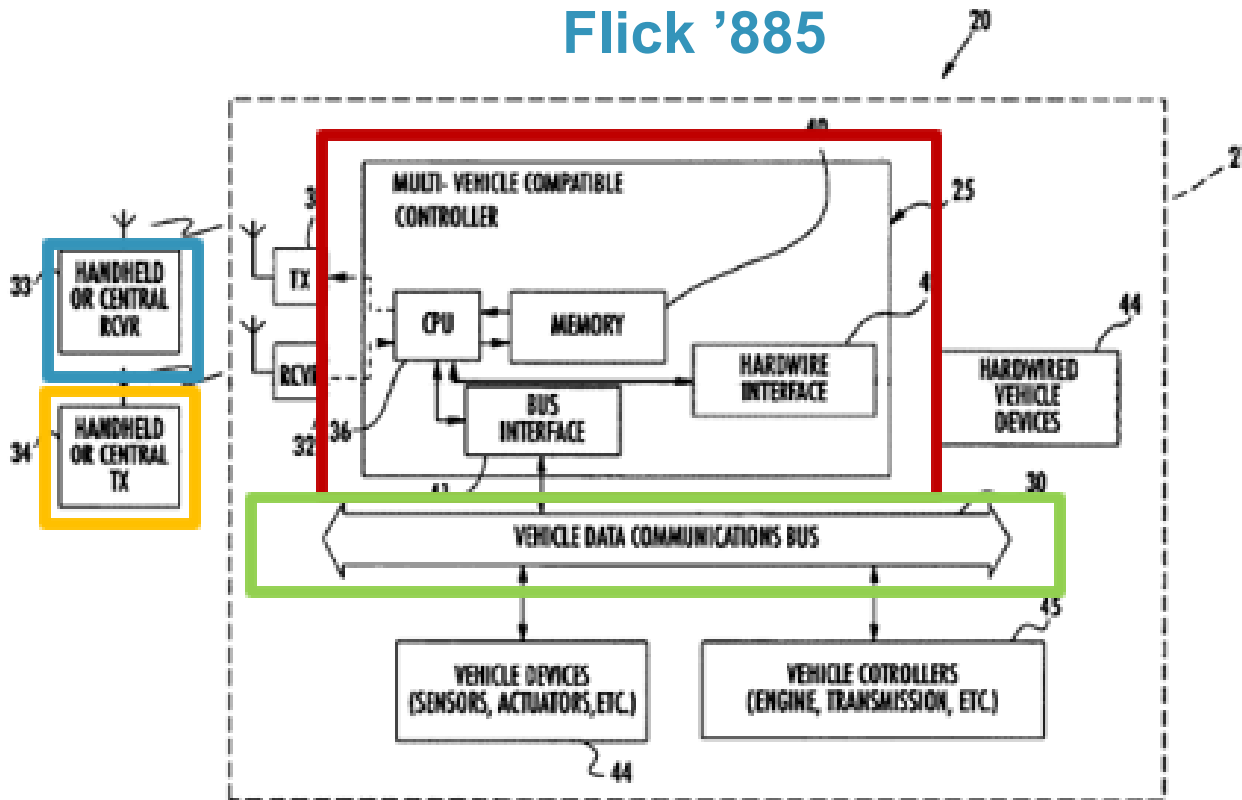


FIG. 1

Paper 2 (IPR Petition), at 3, 9-12

'278 Patent

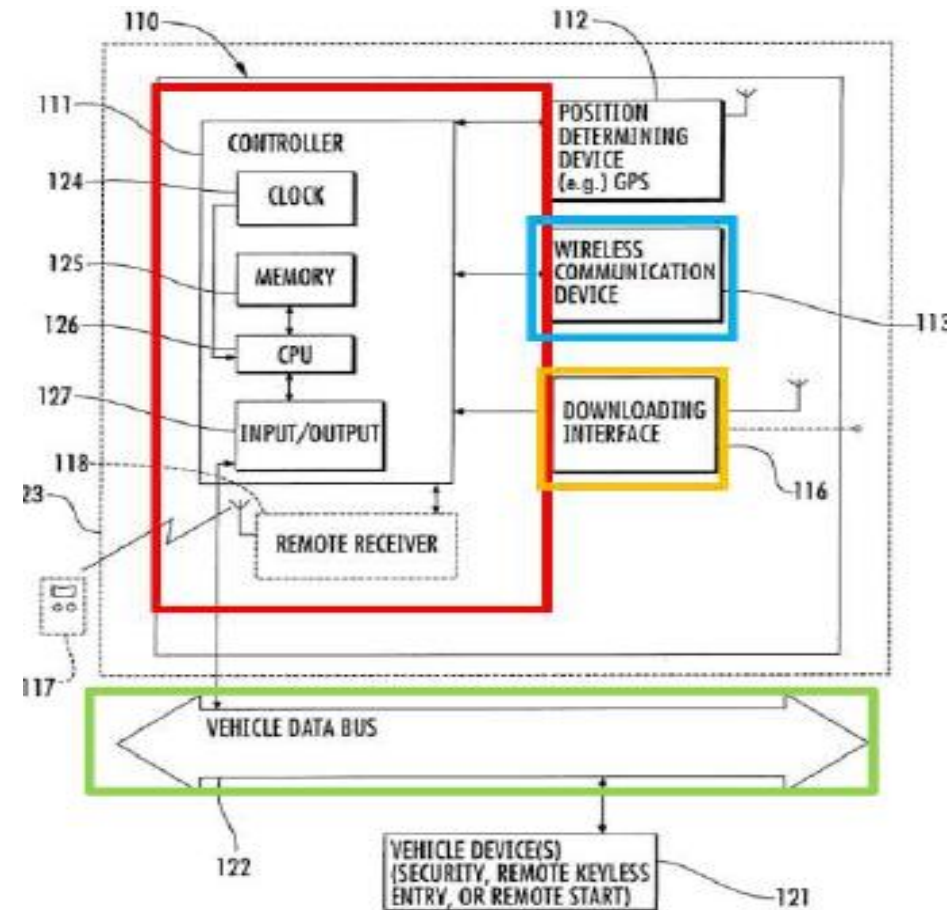


FIG. 10

The Vehicle Tracking Unit (e.g., GPS) Is the Only Feature Added to the '278 Patent

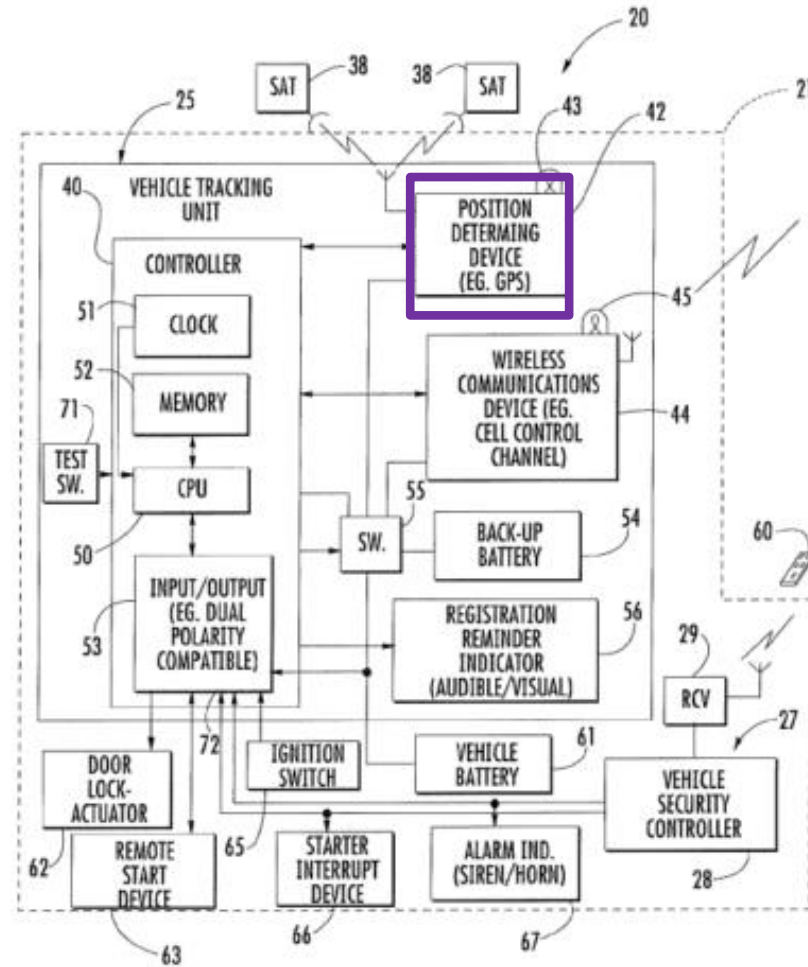
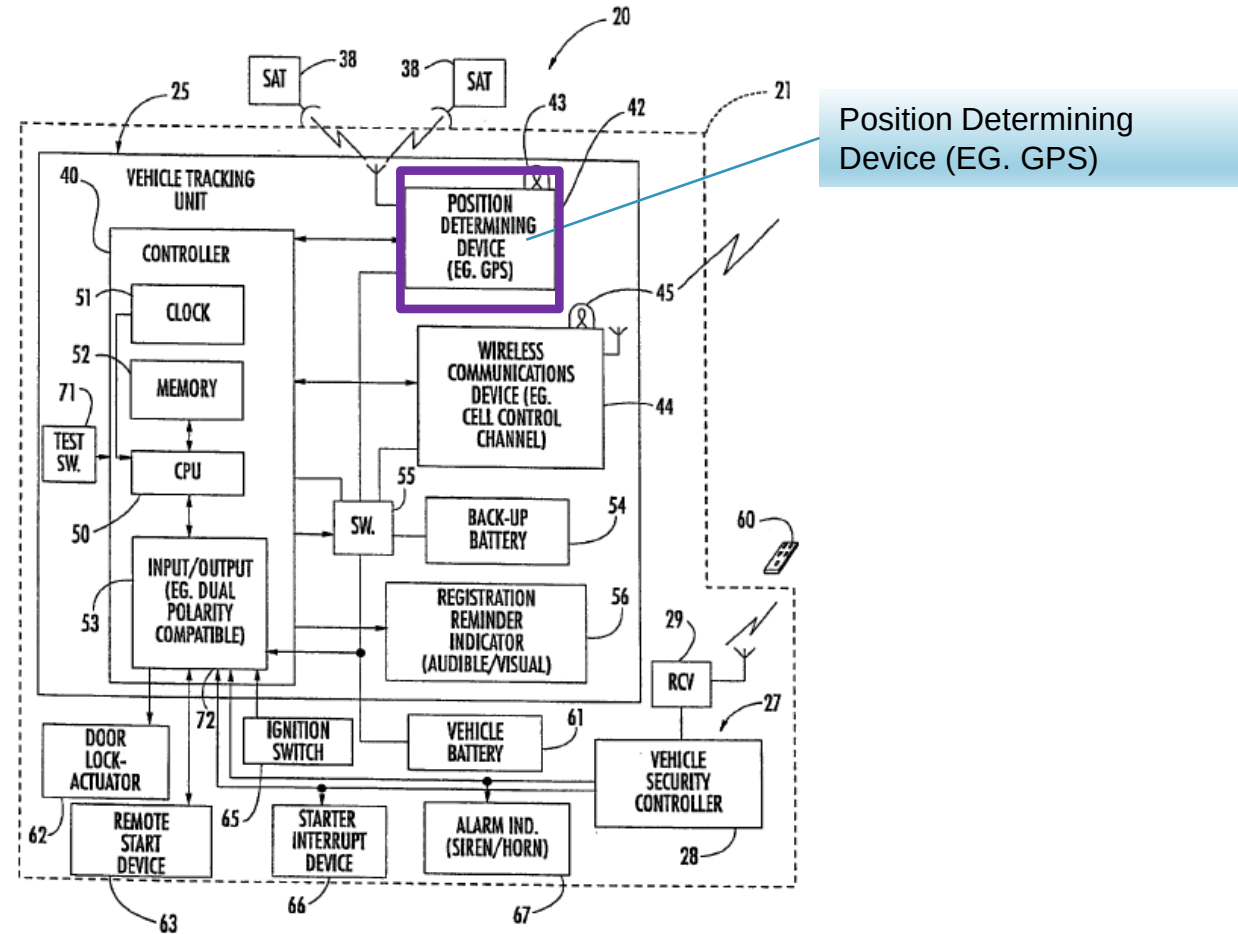


FIG. 2

Paper 2 (IPR Petition), at 2, 10-12

GPS Exists in the Prior Art

Flick '561



Paper 2 (IPR Petition), at 2, 12

FIG. 2.

The '561 Patent Is Prior Art Due to a Defect in the Priority Chain of the '278 Patent

(12) **United States Patent**
Flick

(10) **Patent No.:** **US 8,032,278 B2**

(45) **Date of Patent:** **Oct. 4, 2011**

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**.

Paper 2 (IPR Petition), at 6-9

The Priority Date of the Claims of the '278 Patent Is July 3, 2007

In the Institution Decision, the Board determined that Flick '885 and Flick '561 qualify as prior art because:

- During a reexamination of the '278 Patent, the Office determined that the earliest priority date of the '278 Patent is its filing date of July 3, 2007. Inst. Decision, at 9-10 (citing Ex. 1010, 5-6).
- The Patent Owner did not appeal the Office's priority date finding. *Id.*

Paper 12 (Decision Granting Institution of IPR), at 9-10

The '561 Patent Was Never Previously Presented to the Office As Prior Art

- Due to the defect in the priority chain of the '278 Patent, the U.S. Patent No. 6,606,561 (“Flick '561”) is prior art.
- Up until the time the Petitioner filed its IPR Petition, the Office had never considered the '561 Patent as prior art because no party has ever presented the defect in the priority chain of the '278 Patent and why the parent of the '278 Patent qualifies as prior art.

Paper 2 (IPR Petition), at 6-9

U.S. Patent 8,032,278

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Patent Owner's Post-Institution § 325(d) Challenges Should be Rejected

Patent Owner raised the following two arguments in its Sur-reply which we assume are an attempt to revisit its 35 U.S.C. § 325(d) challenges:

- (1) Patent Owner asserts that Flick '561 was “*before* the initial Examiner.” Sur-reply (Paper 25), at 2.
- (2) Patent Owner asserts that Flick '561 is “*cumulative*” of Berard et al, Mansell et al., Coffee et al., and Knockeart et al. Sur-reply (Paper 25), at 3-4.

Patent Owner's Post-Institution § 325(d) Challenges Are Untimely

Patent Owner's § 325 (d) challenges are *untimely* because Patent Owner failed to timely raise them prior to institution. According to 35 U.S.C. § 325(d):

“In determining whether to institute or order a proceeding ..., the Director may take into account whether, and reject the petition or request because, the same or substantially the same prior art or arguments previously were presented to the Office.”

The statutory deadline for raising § 325(d) challenges has passed.

See *Supercell Oy v. Gree, Inc.*, PGR2018-00008, 2019 WL 80477, at *24 (PTAB 2019) (“Patent Owner was unaware of any instance where the Board, essentially, de-instituted a trial portion of a proceeding based on 35 U.S.C. § 325(d) ... we decline to exercise our discretion under 35 U.S.C. § 325(d) and deny the petition at this late stage in the proceeding”) (reversed on other grounds).

Patent Owner Applies an Erroneous Legal Standard for 325 (d) challenges

1. Patent Owner has applied an erroneous legal standard for its § 325 (d) challenges.

- Patent Owner asserts that Flick '561 had been “*before* the initial Examiner” because it is cited in the priority chain of the '278 Patent and listed in the related applications section. *Sur-Reply*, at 2.
- “Before the initial Examiner” is not the correct legal standard under 35 U.S.C. § 325 (d).
- The standard under 35 U.S.C. § 325 (d) is whether Flick '561 was previously presented to the Office as prior art.
 - Answer: No

Patent Owner Did Not Apply the *Advanced Bionics* Factors.

2. Patent Owner also failed to apply the factors set forth under *Advanced Bionics v. Med-Electronmedizinische Gerate GMBH*, IPR2019-01469.
 - Under *Advanced Bionics*, the Board may consider whether or not any overlap exists between the arguments made during the prior reexaminations and the manner in which Petitioner relies on the prior art. See *Advanced Bionics*, at p. 9.
 - Patent Owner does not dispute that during the initial examination and in the prior reexaminations, the Office was never asked to consider arguments related to:
 - The combination of Flick '885 + Flick '561; or
 - The combination of a reference disclosing an MVCC, a downloading interface and a wireless communication device and a reference disclosing a GPS receiver.

U.S. Patent 8,032,278

First Instituted Ground of Unpatentability

Untimely 325(d) Challenge

Motivation to Combine

Secondary Considerations

The Law on Motivation to Combine

A motivation to combine prior art references can come from the prior art reference itself, the knowledge of those skilled in the art or the nature of the problem to be solved. See *Acoustic Tech., Inc. v. Itron Networked Sols., Inc.*, 949 F.3d 1366, 1375 (Fed. Cir. 2020).

Paper 2 (IPR Petition), at 18

The Flick Patents Are All Directed to the Same Problem of Deterring Vehicle Theft Using Vehicle Security Systems.

Flick '885

BACKGROUND OF THE INVENTION

20

Vehicle security systems are widely used to deter vehicle theft, prevent theft of valuables from a vehicle, deter vandalism, and to protect vehicle owners and occupants. A typical automobile security system, for example, includes a central processor or controller connected to a plurality of vehicle sensors. The sensors, for example, may detect opening of the trunk, hood, doors, windows, and also movement of the vehicle or within the vehicle. Ultrasonic and microwave motion detectors, vibration sensors, sound discriminators, differential pressure sensors, and switches may be used as sensors. In addition, radar sensors may be used to monitor the area proximate the vehicle.

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Paper 2 (IPR Petition), at 20

Flick '561

BACKGROUND OF THE INVENTION

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.

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Paper 2 (IPR Petition), at 19-20

The Flick Patents Are All Directed to the Same Problem of Deterring Vehicle Theft Using Vehicle Security Systems.

'278 Patent

BACKGROUND OF THE INVENTION

Motor vehicles, such as passenger cars, trucks, busses, fleet 30
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 35
the getaway path of the thief.

'278 Patent (Exh. 1001), at Col. 1:30-36; Paper 24, at 9

The '561 Patent States a Clear Reason for Adding GPS to a Vehicle Security System to Track a Stolen Vehicle

Flick '561

BACKGROUND OF THE INVENTION

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.

'278 Patent (Exh. 1001), at Col. 1:30-36; Paper 24, at 9

Flick '561 Discloses a Motivation to Look to a MVCC, such as disclosed in Flick '885

(12) **United States Patent**
Flick

(10) Patent No.: **US 6,606,561 B2**
(45) Date of Patent: **Aug. 12, 2003**

SUMMARY OF THE INVENTION

15 In view of the foregoing background, it is therefore an
object of the invention to provide a vehicle tracking unit and
related methods that permit ready interface to devices in the
vehicle, such as those devices which may be part of an
existing vehicle security system.

The Disclosures of Flick '885 Lead Towards the Combination with Flick '561

(12) **United States Patent**
Flick

(10) **Patent No.:** **US 6,756,885 B1**
(45) **Date of Patent:** **Jun. 29, 2004**

BACKGROUND OF THE INVENTION

20

Vehicle security systems are widely used to deter vehicle theft, prevent theft of valuables from a vehicle, deter vandalism, and to protect vehicle owners and occupants. A typical automobile security system, for example, includes a central processor or controller connected to a plurality of vehicle sensors. The sensors, for example, may detect opening of the trunk, hood, doors, windows, and also movement of the vehicle or within the vehicle. Ultrasonic and microwave motion detectors, vibration sensors, sound discriminators, differential pressure sensors, and switches may be used as sensors. In addition, radar sensors may be used to monitor the area proximate the vehicle.

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The Motivation to Combine Comes from Persons of Ordinary Skill

Flick Admits that GPS Was a Known Solution for Tracking Stolen Vehicles Prior to July 2007

According to the Flick '561 (Col. 1:42-47):

“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.”

U.S. Pat. No. 5,223,844, entitled “Vehicle tracking and security system” has a filing date of April 17, 1992 and an issuance date of June 29, 1993. The '844 Patent describes the invention as “a vehicle tracking and security system which allows immediate response in case of vehicle theft”

Paper 24 (Petitioner's Reply), at 9

Petitioner's Expert, Dr. Azim Eskandarian, Provided Uncontested Opinions That GPS Was a Known Solution for Tracking Stolen Vehicles Prior to July 2007

According to Dr. Azim Eskandarian

“Vehicle security systems using vehicle tracking technology existed prior to July 2007.

For example, General Motors' OnStar, Mercedes-Benz's Tele Aid, and Ford's RESCU all used vehicle tracking technology to address vehicle security problems:

- “OnStar services include ... **stolen vehicle tracking** ...” Ex. 1037, at 2-3.
- “A fourth benefit of Tele Aid system is stolen vehicle tracking, which can help authorities locate the car once the owner reports it stolen.” Ex. 1038, at 3.
- “Ford's RESCU system includes an anti-carjacking procedure.... the GPS continues tracking the vehicle.” Ex. 1039, at 2.

Patent Owner did not address or rebut Dr. Eskandarian's statements, and therefore they remain uncontested.

Ex. 1033, ¶¶ 23-24

Patent Owner's Challenges to the Motivation to Combine Should be Rejected

Patent Owner's expert, Joseph McAlexander, III disputes that a PHOSITA would be motivated to combine the prior art Flick patents because GPS in vehicles was “relatively new” as of July 3, 2007.

- Ex. 2044, ¶ 12 (“At the time of invention of the ‘278 Patent, GPS in vehicles was relatively new”)

In its Sur-Reply, Patent Owner retracted Mr. McAlexander's statement. Patent Owner now asserts that Mr. McAlexander had intended to state that GPS in vehicles was relatively new to “commercial products” at the time of the invention. See Sur-reply, at 7 (“the point Mr. McAlexander made was commercial products implementing GPS tracking in vehicles was relatively new at the time of the invention.”)

Patent Owner Applies an Erroneous Legal Standard for Motivation to Combine

- Patent Owner's argument is legally unsound.
- The test for motivation to combine is not based on the commercial availability of a prior art reference. The motivation to combine can come from the prior art reference itself, the knowledge of those skilled in the art or the nature of the problem to be solved. *Acoustic Tech., Inc. v. Itron Networked Sols., Inc.*, 949 F.3d 1366, 1375 (Fed. Cir. 2020).

Paper 2 (IPR Petition), at 18

Patent Owner Applies an Erroneous Legal Standard for Motivation to Combine

- Furthermore, GPS was commercially available in vehicles prior to July 2007.
- Petitioner's expert, Dr. Azim Eskandarian, presented evidence of commercial vehicle systems using GPS prior to July 2007, including General Motors' OnStar, Mercedes-Benz's Tele Aid, and Ford's RESCU.
 - See Ex. 1033, at ¶ 24; Ex. 1036, at 17 ("OnStar, winner of the 1996 Computerworld Smithsonian Award for Transportation, integrates on-board advanced vehicle electronic architecture with Global Position System (GPS) satellite technology and a cellular phone");
 - See *also* Ex. 1037, at 2; Ex. 1038, at 4; Ex. 1039, at 2.

U.S. Patent 8,032,278

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Secondary Considerations

Patent Owner Is Not Entitled to a Presumption of Nexus

“Obviousness is ultimately a legal determination, and a strong showing obviousness may stand even in the face of considerable evidence of secondary considerations.” See Paper 12 (Institution Decision) at 21 *citing to ZUP, LLC v. Nash Mfg., Inc.*, 896 F.3d 1365, 1374 (Fed. Cir. 2018).

Patent Owner Is Not Entitled to a Presumption of Nexus

“When the thing that is commercially successful is not coextensive with the patented invention – for example, if the patented invention is only a component of a commercially successful machine or process,” the patentee is not entitled to a presumption of nexus. *Demaco Co. v. F. Von Langsdorff Licensing*, 851 F.2d 1387, 1392 (Fed. Cir. 1988).

An infringing product does not establish coextensiveness with the claimed invention if the product includes critical unclaimed features. *Fox Factory, Inc. v. SRAM, LLC*, 944 F.3d 1366, 1374-76 (Fed. Cir. 2019); *Lectrosonics, Inc. v. Zaxcom, Inc.*, Case IPR2018-01129, Paper 33 (PTAB Jan. 24, 2020) (precedential).

Paper 24 (Petitioner’s Reply), at 13-14

Significant Unclaimed Features Exist in the Accused CalAmp Products

- Patent Owner relies on a jury finding of infringement in *Omega Patents v. CalAmp* as evidence of co-extensiveness with the claimed invention. Paper 16, at 38.
- In vacating the jury's damage award in *CalAmp*, the Federal Circuit determined that significant unclaimed features exist in the accused CalAmp products, citing to the products' three-axis accelerometer and hard braking, cornering and impact detection, and an on-board alert engine PET (Programmable Event Generator) as evidence of unclaimed features. Ex. 1041, at 24
- Accordingly, Patent Owner is not entitled to a presumption of nexus due to these significant unclaimed features.

Paper 24 (Petitioner's Reply), at 14

Patent Owner's Evidence of Commercial Success Is Linked to A Single Feature Existing in the Prior Art

“Secondary-consideration evidence ‘may be linked to an individual element’ of the claimed invention or ‘to the inventive combination of known elements’ in the prior art.” *Yita LLC v. MacNeil IP LLC*, 69 F.4th 1356, 1364 (Fed. Cir. 2023).

“Objective evidence of nonobviousness lacks a nexus if it exclusively relates to a feature that was known in the prior art.” *Id.*

Patent Owner's evidence of nonobviousness lacks a nexus because it relates to the MVCC feature that was known in the prior art.

Paper 24 (Petitioner's Reply), at 16

Patent Owner's Evidence of Commercial Success Is Linked to A Single Feature Existing in the Prior Art

At his deposition, Patent Owner's expert, Mr. McAlexander testified that the value of the claimed invention is tied to the multi-vehicle compatibility – a feature existing in the prior art:

- “[the CalAmp] product ... would have had **limited value** that wasn't for this multi-vehicle compatibility” Ex. 1030 (Dep. Tr.), at 23:5-7 (emphasis added)
- “Design alternatives were considered but they could not ... determine any that they felt would operate and meet what they needed to do, and ***that the product allowing the multi-vehicle compatibility is something was highly valuable, and it would have limited value if they did not provide that aspect.***” *Id.* at 28:22-29:3 (emphasis added)

Paper 24 (Petitioner's Reply), at 16-17

Patent Owner's Evidence of Commercial Success Is Linked to A Single Feature Existing in the Prior Art.

Similarly, Patent Owner's expert, Mr. McAlexander submitted a declaration to the Office during the reexamination of the '278 Patent stating that:

- “the infringing CalAmp Products would have ‘limited value’ if it were not for the multi-vehicle compatibility.” Ex. 1012, at ¶ 24(j).

In his declaration, Mr. McAlexander further stated to the Office that the multi-vehicle compatibility was “important for the overall licensing program of the Patent Owner” and touted the benefits of the multi-vehicle compatibility as providing for “simplified installation in a vehicle, and avoids the need for separated stock keeping units (SKUs).” *Id.* at ¶ 24(c), (e).

Paper 2 (IPR Petition), at 67

The Jury's Findings of Secondary Considerations in *CalAmp* Are Not Linked to Any Point of Novelty in the Claimed Invention

- Question 5 of the jury verdict in *CalAmp* (nonobviousness) covers four patents -- the **'278 Patent, Flick '885, another MVCC patent, and a data bus patent with a vehicle tracking device** – that were found to be infringed by the same CalAmp products. Ex. 2032, at 9.
- Patent Owner does not link any individual element or combination of elements of the '278 Patent to the jury's finding of commercial success.

Paper 2 (IPR Petition), at 67

Omega's Licensing Evidence Has Limited Value

Omega relies on six license agreements as evidence of secondary considerations.

- Two of the licenses (Exs. 2025 and 2026) do not involve a license of the '278 Patent.
- The other four licenses (Exs. 2028-2031) involve licenses to three or more of the prior art cited in the Petition (along with many other patents unrelated to the '278 Patent).
- Patent Owner's damage expert, Christian Tregillis, did not attempt to apportion the value of the '278 Patent from any of the other licensed patents.
- Patent Owner has not shown that any of these licenses were entered into due to the merits of the claimed invention

Paper 24 (Petitioner's Reply), at 17-20

Patent Owner Has Not Defined the Relevant Market of the Claimed Invention

A patentee can demonstrate commercial success shown by significant sales in a relevant market. *Ormco Corp. v. Align Tech., Inc.*, 463 F.3d 1299, 1311-12 (Fed. Cir. 2006).

The market position of the licensees is also a factor in determining the strength of the licensing evidence. *B&H Manufacturing Inc. v. Foster-Forbes Glass Co.*, 26 USPQ2d 1066, 1070 (N.D. Ind. 1993).

Patent Owner has not defined the relevant market of the claimed invention.

Paper 24 (Petitioner's Reply), at 20

Patent Owner Has Not Established Copying By Others

Patent Owner cites to the jury verdict form from *CalAmp* as evidence of copying by others.

This evidence is insufficient because the jury verdict covered four different patents (**'278 Patent, Flick '885, another MVCC patent, and a data bus patent with a vehicle tracking device**) and the jury's finding of copying is not specific to any patent or accused product.

Paper 24 (Petitioner's Reply), at 22

Conclusion

1. Patent Owner concedes that all limitations of Claims 1-22 are met in Flick '885 and Flick '561.
2. Patent Owner's § 325(d) challenges should be rejected.
3. A PHOSITA would be motivated to combine Flick '885 and Flick '561 because they address the same problem of deterring theft in vehicle security systems.
4. Patent Owner's evidence of secondary considerations is weak and cannot overcome the strong evidence of obviousness.

For these reasons, Petitioner respectfully requests that the Board cancel claims 1-22 of the '278 Patent.