The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte JOSEPH R. GOETZ

Appeal No. 2005-1817
Application No. 09/834,499

ON BRIEF

Before KRASS, BARRY, and LEVY, Administrative Patent Judges.
LEVY, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1-20, which are all of the claims pending in this application.

We AFFIRM-IN-PART.

BACKGROUND

The appellant's invention relates to an automatic vehicle theft protection device having a transponder that is separate from the ignition key (specification, pages 1 and 3). Claim 1 is representative of the invention, and is reproduced as follows:

1. An automatic vehicle theft prevention system for selectively enabling an ignition system of a vehicle, said ignition system being operable using an ignition key, and said system comprising:

an interrogator circuit including a signal generator for generating an excitation signal and an antenna coupled to said signal generator for radiating said excitation signal and receiving a return signal;

a transponder circuit separate from said ignition key for detecting said excitation signal and radiating said return signal, said transponder circuit modulating said excitation signal to produce said return signal containing an identification code for said transponder circuit;

a controller in communication with said antenna for detecting said identification code in said return signal; and

a relay actuated to an enable mode by said controller when said controller detects said identification code, said relay being actuated to enable said ignition system.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Weber	3,784,839	Jan. 8, 1974
Flanagan	3,864,651	Feb. 4, 1975
Hansen	4,412,267	Oct. 25, 1983
Bethards	5,040,212	Aug. 13, 1991

Bryant et al. (Bryant)	5,155,494	Oct. 13, 1992
Dodd et al. (Dodd)	5,313,189	May 17, 1994
Iijima et al. (Iijima)	5,708,307	Jan. 13, 1998
Tuttle	6,112,152	Aug. 29, 2000
Tallman et al. (Tallman)	6,175,308	Jan. 16, 2001
Takagi et al. (Takagi)	6,285,948	Sep. 4, 2001 (filed Apr. 6, 2000)
Strohbeck	6,580,972	Jun. 17, 2003 (filed Mar. 20, 2000)

Claims 1, 3, 4, 8, 9, 15 and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Iijima in view of Takagi.

Claim 2 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Iijima in view of Takagi and further in view of Tuttle.

Claims 5 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Iijima in view of Takagi and further in view of Tallman.

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Iijima in view of Takagi and further in view of Bathards.

Claims 7 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Iijima in view of Takagi and further in view of Strohbeck.

Claim 10 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Iijima in view of Takagi and further in view of Weber.

Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Iijima in view of Takagi, Weber, and further in view of Flanagan.

Claim 12 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Iijima in view of Takagi, Weber, Flanagan and further in view of Hansen.

Claim 13 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Iijima in view of Takagi, Weber and Flanagan, and further in view of Dodd.

Claims 14 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Iijima in view of Takagi, and further in view of Bryant.

Claim 20 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Iijima in view of Takagi, Weber, Flanagan, Hansen, Dodd and further in view of Bryant.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejections, we make reference to the answer (mailed December 29, 2004) for the examiner's complete reasoning in support of the

rejections, and to the brief (filed August 16, 2004) for the appellant's arguments thereagainst.

Only those arguments actually made by appellant have been considered in this decision. Arguments which appellant could have made but chose not to make in the brief have not been considered. See 37 CFR § 41.37(c)(1)(vii)(eff. Sept. 13, 2004).

OPINION

In reaching our decision in this appeal, we have carefully considered the subject matter on appeal, the rejections advanced by the examiner, and the evidence of obviousness relied upon by the examiner as support for the rejections. We have, likewise, reviewed and taken into consideration, in reaching our decision, appellant’s arguments set forth in the brief along with the examiner's rationale in support of the rejections and arguments in rebuttal set forth in the examiner's answer.

Upon consideration of the record before us, we make the determinations which follow. We observe at the outset appellant’s statement (brief, page 8) that “[i]t is Appellant’s position that claim 1, 15, and 18 are separately patentable from all other claims on appeal. It is Appellant’s position that

claim 6 is separately patentable from all other claims on appeal. It is Appellant's position that claims 2-5, 7-14, 16-17, and 19-20 stand or fall together and are separately patentable from claims 1, 6, 15, and 18." From the listing of the rejections, supra, we find that appellant's third grouping is not consistent with the rejection as the grouping includes claims rejected under different grounds. Appellant is entitled, procedurally, to review of at least one claim for each separate ground of rejection. Accordingly, we will consider a representative claim for each different ground of rejection. We begin with the rejection of claims 1, 3, 4, 8, 9, 15 and 18 under 35 U.S.C. § 103(a) as being unpatentable over Iijima in view of Takagi.

Turning to claim 1, which is representative of the group, we note as background that in rejecting claims under 35 U.S.C. § 103, it is incumbent upon the examiner to establish a factual basis to support the legal conclusion of obviousness. See In re Fine, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the examiner is expected to make the factual determinations set forth in Graham v. John Deere Co., 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), and to provide a reason why one

having ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985); ACS Hosp. Sys., Inc. v. Montefiore Hosp., 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). These showings by the examiner are an essential part of complying with the burden of presenting a prima facie case of obviousness. Note In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If that burden is met, the burden then shifts to the applicant to overcome the prima facie case with argument and/or evidence. Obviousness is then determined on the basis of the evidence as a whole. See id.; In re Hedges, 783 F.2d 1038, 1039, 228 USPQ 685, 686 (Fed. Cir. 1986); In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984); and In re Rinehart, 531 F.2d 1048, 1052, 189 USPQ 143, 147 (CCPA 1976).

The examiner's position (answer, page 4) is that Iijima does not disclose the transponder circuit being separate from the ignition key. To overcome this deficiency of Iijima, the examiner turns to Takagi for a teaching of a transponder circuit separate from the ignition key in a vehicle access system.

Appellants' position (brief, page 10) is that if modified as advanced by the examiner, Iijima would be unworkable for its intended purpose and that the Iijima system utilizing a specialized key suffers from the problems that appellant’s invention of claim 1 corrects. It is argued (brief, page 11) that the invention is to be gauged not only by the extent or simplicity of the physical change, but also by the perception of the necessity or desirability of making such changes to produce a new result. It is further asserted (brief, page 12) that it is the cooperative relationship of the claimed elements that achieves a novel and unobvious benefit of cost savings when obtaining duplicate keys, and that Iijima fails to express a motivation for making the modification suggested by the examiner. It is argued (brief, page 13) that Iijima requires the specialized key to prevent car theft by shape forgery of the mechanical key. It is further argued (id.) that separation of the transponder from the key is contrary to the express purpose

of the Iijima system, and the obviousness is derived not from the prior art, but only from appellant's disclosure.

From our review of the record, including the arguments presented by appellant and the examiner, we find that the issue before us is whether it would have been obvious to have separated the transponder of Iijima from the ignition key, in view of the combined teachings of Iijima and Takagi. As acknowledged by both appellant and the examiner, Iijima does not disclose this feature. From our review of Takagi we find that although Takagi's embodiment of figure 1 shows the transponder 18a to be located within key 18, Takagi discloses (col. 6, lines 66 and 67) that "[t]he transponder 18a may be provided separately from the key 18." From this disclosure of Takagi, we find that the reference discloses alternatives of having the transponder be either within the key or separate from the key. From the alternatives presented, we agree with the examiner that an artisan would have been taught that these two alternatives are interchangeable and that an artisan would either form the transponder within the key, or form the transponder separate from the key. We find the disclosure of Takagi to be an express suggestion of making the transponder separate from the key, and that the disclosure of Takagi would have taught an artisan that

the transponder of Iijima can be formed either within the key or separate from the key. In sum, we find an express suggestion within the prior art of making the transponder separate from the key.

We are not persuaded by appellant's assertion (brief, page 11) that "[i]t is Appellant's position that invention is to be gauged not only by the extent or simplicity of the physical changes, but also by the perception of the necessity or desirability of making such changes to produce a new result." Appellant is correct that the desirablilty of making the modification should be considered. However, from the disclosure in Takagi of forming the transponder either within the key or separate from the key, we find the desirability of making the modification. The disclosure of the two alternatives suggests the equivalence and interchangeability of the alternate key and transponder constructions.

We are not persuaded by appellant's assertion (brief, page 12) that Iijima fails to articulate a motivation for making the modification suggested by the examiner. It is the combined teachings of the prior art that need to be considered, not the teachings of Iijima alone. Nor are we persuaded by appellant's assertion (id.) that "it is the cooperative relationship of the

claimed elements that achieves a novel and unobvious benefit for Appellant's invention of cost savings when obtaining duplicate keys." While the claimed relationship may achieve benefits over Iijima alone, the combined teachings of Iijima and Takagi, for the reasons set forth, supra, would have suggested the claimed invention to an artisan. In addition, we agree with appellant (brief, page 10) that the specialized key of Iijima suffers from the problems that appellant's invention of claim 1 corrects. However, we do not agree that if the transponder of Iijima were separated from the key that the device of Iijima would be unworkable for its intended purpose, because in Iijima, the intended purpose is an anti-theft car protection system (col. 2, line 8) and the system would still function if the transponder were separated from the key. From all of the above, we are not convinced of any error on the part of the examiner, and find that the combined teachings of Iijima and Takagi would have suggested to an artisan the invention of claim 1. Accordingly, the rejection of claim 1 under 35 U.S.C. § 103(a) is affirmed. As independent claims 15 and 18 have not been separately argued, these claims fall with claim 1. In addition, claims 3, 4, 8 and 9 have not been separately argued and therefore fall with claim

1. The rejection of claims 3, 4, 8, 9, 15 and 18 under 35 U.S.C. § 103(a) is affirmed.

We turn next to claim 2. The examiner's position (answer, page 8) is that Iijima in view of Takagi do not explicitly disclose that the transponder circuit is a mobile radio frequency identification (RFID) data carrier including a memory element for storing the identification code. To overcome this deficiency of Iijima and Takagi, the examiner turns to Tuttle for a teaching of a transponder circuit that is a RFID data carrier in a vehicle access system.

Appellant's position (brief, page 17) is that claims 2-5, 7-14, 16 and 17, 19 and 20 were rejected as unpatentable over Iijima in view of Takagi with some of the claims being further rejected in view of one or more of the following references to Tuttle, Tallman, Strohbeck, Weber, Flanagan, Hansen, Dodd and Bryant. It is argued (id.) that the claims are patentable for the reasons set forth, above, with respect to claim 1, and that "due to the great number of disparate references cited in connection with this case, it is Appellant's position that the above-identified application was used as a blueprint, with the hypothetical combination of the *Iijima* and *Takagi* device as the

main structural diagram." We are not persuaded by appellant's assertion because the number of references cited, by itself, is not evidence of non-obviousness. It is the teachings of the references, when applied against the language of the claim as a whole, that must be considered in the determination of whether the invention set forth in a claim would have been suggested by the prior art. As we address each additional rejection, we will consider each of the applied references. Turning to claim 2, we have no specific arguments presented for this claim. From our review of the record, we find that in Iijima the identification code is transmitted from the transponder (col. 23, lines 43 and 44) and that the identification code is stored in the EEPROM of the transponder (col. 3, lines 41 and 42). From this disclosure, we find that Iijima discloses the transponder to be a radio frequency data carrier including a memory element for storing the identification code, as recited in claim 2. In addition, from our review of Tuttle, we find from the disclosure (col. 2, lines 38-41) that wireless transponder circuitry 14 comprises RFID circuitry, including memory. From our review of the record, we are in agreement with the examiner, for the reasons set forth in the answer, that the teachings of Iijima, Takagi and Tuttle would have suggested to an artisan the invention set forth in claim 2.

From the lack of any specific arguments by appellant, and our agreement with the examiner's position, we are not persuaded of any error on the part of the examiner regarding the rejection of claim 2. Accordingly, the rejection of claim 2 under 35 U.S.C. § 103(a) is affirmed.

We turn next to the rejection of claims 5 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Iijima in view of Takagi and further in view of Tallman. The examiner (answer, page 9) relies upon Tallman for a teaching of an input being a data port configured for connection with an external programming device, with the external programming device providing the predetermined access code. The examiner asserts (id.) that the modification would have been obvious so as to allow a programming device to program ID code used in the vehicle theft protection system. Appellant provides no specific arguments regarding these claims, but generically argues (brief, page 24) that hindsight has been used to make a host of obviousness rejections based on disparate references and that the claims were used as a guide to selectively pick and choose elements from the various references so as to arrive at the claimed invention. Appellant's general assertion regarding the various references applied does not address why appellant considers the language of claims 5 and 16

to be non-obvious over the prior art.

From our review of Tallman, who provides, inter alia, theft prevention for an automobile, and discloses data port 261 for connection to an external programming device for entering a unique identification code (col. 6, lines 40-63), we agree with the examiner, for the reasons set forth in the answer, that the teachings of Iijima, Takagi and Tallman would have suggested to an artisan the invention set forth in claim 5. From the lack of any specific arguments by appellant with respect to these claims, we are not convinced of any error on the part of the examiner with respect to the rejection of claims 5 and 16. Accordingly, the rejection of claims 5 and 16 under 35 U.S.C. § 103(a) is affirmed.

We turn next to the rejection of claim 6 under 35 U.S.C. § 103(a) as being unpatentable over Iijima in view of Takagi and Bethards. The examiner’s position (answer, pages 9 and 10) is that Iijima and Takagi do not disclose that the input is an antenna configured for radio frequency (RF) communication with an external programming device, which provides the predetermined authorized access code.

To overcome this deficiency of Iijima and Takagi, the examiner turns to Bethards for a teaching of this feature.

Appellant asserts (brief, page 15) that no motivation is provided because Takagi already includes means for providing a predetermined authorized access code via a wired connection. It is argued (id.) that the key ID of Takagi is rewritable and can be changed if the key is stolen, and that it would be redundant to modify the combination of Iijima and Takagi. We agree. However, because the program rewriting tool 14 of Takagi is hard wired, as noted by appellant, we find that an artisan would have been motivated to make the program rewriting tool 14 of Takagi operate using RF in view of the disclosure of Bethards (col. 4, lines 35-38 and col. 3, lines 17-21), as Bethards discloses using RF communications for programming the subscriber unit with an identification code. Takagi further discloses that electronic control apparatuses are used to prevent intrusion into automobiles and prevent burglary of the vehicle. Program rewriting tools may be used to rewrite the anti-burglary function by erasing the key ID check program, making it likely that vehicles will be stolen.

The invention of Bethards provides a program rewriting control for preventing unauthorized intrusion and burglary (col. 1, lines 17-19, 31-38 and 42-45). From these disclosures of Takagi and Bethards, an artisan would have been taught to make

the system of Iijima rewritable through a rewriting tool that uses RF communications, in light of the teachings of the applied prior art. Although we have relied upon the references in a manner that is not identical to how the references were applied by the examiner, we find that the prior art would have suggested to an artisan the language of claim 6. Accordingly, the rejection of claim 6 under 35 U.S.C. § 103(a) is affirmed.

We turn next to the rejection of claims 7 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Iijima in view of Takagi and Strohbeck. No specific arguments have been presented for these claims by appellant. Accordingly, we select claim 7 as being representative of the group. Claim 7 relates to the system being actuated by more than one transponder, where there is a second transponder and a second identification code that is received by the controller, for actuating the relay. The examiner (answer, pages 10, 11, 19 and 20) relies upon Strohbeck for this feature.

From our review of Strohbeck, we find that this reference is directed to a keyless access and/or drive authorization system that includes a plurality of transponders (col. 1, lines 28-34 and 50-55; and col. 3, line 58 through col. 4, line 4). From the disclosure of Strohbeck, we agree with the examiner, for the

reasons cogently set forth on pages 11 and 12 of the answer, that the teachings of Iijima, Takagi and Strohbeck would have suggested to an artisan the invention set forth in claim 7. From the lack of any specific arguments regarding this claim, we are not convinced of any error on the part of the examiner. Accordingly, the rejection of claim 7 under 35 U.S.C. § 103(a) is affirmed. As claim 17 falls with claim 7, the rejection of claim 17 under 35 U.S.C. § 103(a) is affirmed.

We turn next to claim 10, which stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Iijima in view of Takagi and further in view of Weber. The examiner’s position (answer, pages 13 and 14) is that Iijima and Takagi do not disclose that the ignition switch is activated by an ignition key, and that a latching relay is actuated in response to a momentary actuation of the relay when the controller detects the identification code, wherein the latching relay is adapted to remain latched until the ignition switch is deactivated. To overcome this deficiency of Iijima and Takagi, the examiner turns to Weber for a teaching of these features. Appellant presents no specific arguments regarding this claim. From our review of Weber, we will sustain the rejection of claim 10 for the reasons set forth in the examiner’s answer. From the lack of any

specific arguments by appellant, we are not convinced of any error on the part of the examiner. Accordingly, the rejection of claim 10 under 35 U.S.C. § 103(a) is affirmed.

We turn next to the rejection of claim 11, rejected under 35 U.S.C. § 103(a) as being unpatentable over Iijima in view of Takagi and further in view of Weber and Flanagan. Claim 11, which depends from claim 10, is directed to an override switch in communication with an input of the latching relay wherein activation of the override switch causes the latching relay to be latched to continuously enable the ignition system. The examiner (answer, pages 14 and 15) turns to Flanagan for a teaching of "an override switch (10)(i.e. a magnetic relay acts as an override switch) in communication with an input of said latching relay wherein activation of said override swtich (10) causes said latching relay (26)(i.e. a latching switch) to be latched to continuously enable said ignition system (col. 3 lines 39-66; see Figure 1) in order to permit the automobile to start." Appellant's position (brief, pages 19 and 20) is that appellant does not dispute that override switches and relays are known, but asserts that claim 11 is directed to a new combination of elements, and that the prior art does not teach or suggest the

inclusion of an override switch within a vehicle theft protection system. It is asserted (id.) that there appears to be little reasoning to support the examiner's position and that the examiner has used the claim as a guide to pick and choose elements and concepts from the prior art.

From our review of Flanagan, we find that the reference is directed to an override for an interlock system that will disable the ignition system and prevent operation of the automobile (col. 1, lines 22-26 and 32-34 and col. 3, lines 39-60). Although the system of Flanagan provides a single cycle override, the override can be repeated as necessary, and is therefore continuously enabled. We are not persuaded by appellant's assertion that the invention is directed to a new combination of elements because the issue is whether the combination was suggested by the prior art. In addition, from the disclosure of the latch override of Flanagan for use in preventing the engine from being started, we agree with the examiner that the teachings of the prior art would have suggested to an artisan the language of claim 11. From the disclosure of Flanagan, we are not persuaded that the examiner is merely picking and choosing elements from the prior art to arrive at appellant's invention, as the prior art suggests the language

of the claim. Accordingly, the rejection of claim 11 under 35 U.S.C. § 103(a) is affirmed.

We turn next to the rejection of claim 12 under 35 U.S.C. § 103(a) as being unpatentable over Iijima in view of Takagi and further in view of Weber, Flanagan and Hansen. The examiner's position (answer, page 15) is that "Iijma et al. in view of Takagi et al., Weber and Flanagan did not explicitly disclose wherein activation of said override switch causes said latching relay to remain latched to continuously enable said ignition system only following actuation of said latching relay by said relay." To overcome this deficiency of the prior art, the examiner turns to Hansen for a teaching of an override switch, which when activated, causes the latching relay to remain latched to continuously enable said ignition system only following actuation of said latching relay by said relay.

Appellant asserts (brief, page 20) that Hansen is not in the same field of endeavor as a vehicle theft protection system. It is asserted (brief, page 21) that an artisan would not have found the invention of claim 12 obvious without using the claim as a guide to selectively pick and choose elements and concepts from the prior art. From our review of Hansen, we find that the reference is directed to a circuit breaker relay for use in

aircraft, and provides resistance to false trips due to vibration (col. 1, lines 12-15 and 43-47). Although the reference does show the claimed override switch as noted by the examiner, we find that the reference is directed to preeventing problems caused by vibration in an aircraft, and is not drawn to the same field of endeavor nor reasonably related to the problem that appellant is solving. We therefore find that an artisan would not have been motivated to modify the teachings of Iijima, Takagi, Weber and Flanagan with Hansen in order to arrive at the claimed invention. From all of the above, we find that the prior art fails to establish a prima facie case of obviousness of claim 12. The rejection of claim 12 under 35 U.S.C. § 103(a) is reversed.

We turn next to the rejection of claim 13 under 35 U.S.C. § 103(a) as being unpatentable over Iijima in view of Takagi and further in view of Weber, Flanagan and Dodd. The examiner's position (answer, pages 16 and 17) is that Iijima, Takagi, Weber and Flanagan do not suggest an indicator for the override switch. The examiner turns to Dodd for this feature. Appellant position (brief, pages 21 and 22) is that "[a]ppellant does not dispute that it is known to include indicators to indicate when a switch is activated." However, appellant asserts that claim 13

is directed to a new combination of elements and that none of the prior art is directed to an override switch in a vehicle theft prevention system. We note at the outset that as we indicated, supra, Flanagan is directed to a system, including an override switch, for preventing engine starting in an automobile. From appellant's admission that the use of an indicator for indicating when a switch is activated and the disclosure of Dodd of providing an indicator for an override switch for a vehicle, we agree with the examiner, for the reasons set forth in the answer, that the prior art would have suggested to an artisan the language of claim 13. Accordingly, the rejection of claim 13 under 35 U.S.C. § 103(a) is affirmed.

We turn next to the rejection of claims 14 and 19 under 35 U.S.C. § 103(a) as being unpatentable over Iijima in view of Takagi and further inn view of Bryant. We select claim 14 as representative of the group. The examiner (answer, pages 17 and 18) relies upon Bryant for the placement of the antenna within the passenger compartment of the vehicle. Appellant's position (brief, page 22) that Bryant is directed to cellular telephony and is not in the same field of endeavor as the invention. It is argued (brief, page 23) that "[m]oreover, no convincing line of

reasoning as to why the claimed invention is obvious in light of the teachings of the references has been presented in connection with claim 14."

From our review of claim 14, which depends from claim 1, we find that the claimed antenna is coupled to the signal generator of the interrogator circuit. Although Bryant is directed to an antenna system for an automobile, the reference is directed to a mobile antenna for use with cellular telephones (col. 1, lines 8-10). From our review of Bryant, we find no suggestion for modifying the antenna 2 of Iijima to be placed inside the automobile passenger compartment as recited in claim 14, absent appellant's disclosure. In addition, although we find from the disclosure of Iijima that the interrogator and antenna 2, 3 are in the vehicle, we find no suggestion that the antenna 2 be placed in the passenger compartment. Thus, we find that the prior art would not have suggested to an artisan that the antenna attached to the signal generator be located within the passenger compartment. Accordingly, the rejection of claims 14 and 19 under 35 U.S.C. § 103(a) is reversed.

We turn next to claim 20. We reverse the rejection of claim 20 due to its dependency from claim 19, and the deficiencies of Bryant.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1-11, 13 and 15-18 under 35 U.S.C. § 103(a) is affirmed. The rejection of claims 12, 14, 19 and 20 under 35 U.S.C. § 103(a) is reversed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED-IN-PART

ERROL A. KRASS Administrative Patent Judge	)	
LANCE LEONARD BARRY Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
STUART S. LEVY Administrative Patent Judge	)	

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