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Paper 37
Entered: September 29, 2014

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

K-40 ELECTRONICS, LLC,
Petitioner,

v.

ESCORT, INC.,
Patent Owner.

Case IPR2013–00240
Patent 6,670,905

Before GLENN J. PERRY, THOMAS L. GIANNETTI, and TRENTON A. WARD, *Administrative Patent Judges.*

WARD, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318(a); 37 C.F.R. § 42.73

I. INTRODUCTION

A. Background

K-40 Electronics, LLC ("Petitioner") filed a Petition for *inter partes* review of claims 1–6, 11–12, 15–18, 22–33, 36–38, 41–72, and 74–85 of U.S. Patent No. 6,670,905 (Ex. 1001, "the '905 patent"). Paper 1 ("Pet."). Escort, Inc. ("Patent Owner") filed a Preliminary Response. Paper 5 ("Prelim. Resp."). On October 11, 2013, we instituted *inter partes* review pursuant to 35 U.S.C. § 314 as to claims 1–6, 11–12, 15–18, 22–33, 36–38, 41–72, and 74–85 of the '905 patent. Paper 9 ("Dec.").

After institution of *inter partes* review, Patent Owner filed a Response (Paper 16, "PO Resp.") and Petitioner filed a Reply (Paper 21, "Pet. Reply"). An oral hearing was held on June 17, 2014. The hearing transcript has been entered in the record as Paper 36 ("Tr."). The hearing included live oral testimony from the named inventor of the '905 patent, Steven K. Orr. Tr. 5:10–41:11.

The Board has jurisdiction under 35 U.S.C. § 6(c). This final written decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons discussed below, we determine that Petitioner has shown by a preponderance of the evidence that claims 1–6, 11–12, 15–18, 22–33, 41–72, and 74–85 of the '905 patent are unpatentable. Additionally, for the reasons discussed below, Petitioner has not shown by a preponderance of the evidence that claims 36–38 of the '905 patent are unpatentable.

B. Related Proceeding

In addition to this Petition, we instituted *inter partes* review on August 29, 2013 based on Petitioner's challenges to the patentability of certain claims of Patent Owner's U.S. Patent No. 7,999,721 (IPR2013–00203), a patent

that claims priority to the ’905 patent, among others. Our final decision in that proceeding was entered on August 27, 2014. *See* IPR2013–00203, Paper 45. This decision will refer to the Final Decision in IPR2013–00203 (“the ’203 Decision”) and will, in places, rely on the Board’s analysis therein.

C. The ’905 Patent

The ’905 patent is titled “Radar Warning Receiver with Position and Velocity Sensitive Functions” and generally relates to a Global Positioning System (“GPS”) enabled radar detector designed to process radar sources dynamically based on previously-stored geographically referenced information. Ex 1001, Abstr. As explained in the Specification, in the spectrum allocated by the Federal Communications Commission for police radar systems, there are increasing numbers of signals generated by other applications. *Id*. at col. 2, ll. 1–12. “As a result, radar detectors are increasingly generating false alarms, effectively ‘crying wolf,’ reducing the significance of warnings from radar detectors.” *Id*. at col. 2, ll. 9–12. The ’905 patent’s radar detector includes technology for determining the location of the detector, and comparing this location to the location of known false alarm sources so as to alter the alarm provided by the radar detector in response to false alarm sources. *Id*. at col. 4, ll. 15–36. Figure 1 of the ’905 patent is reproduced below:

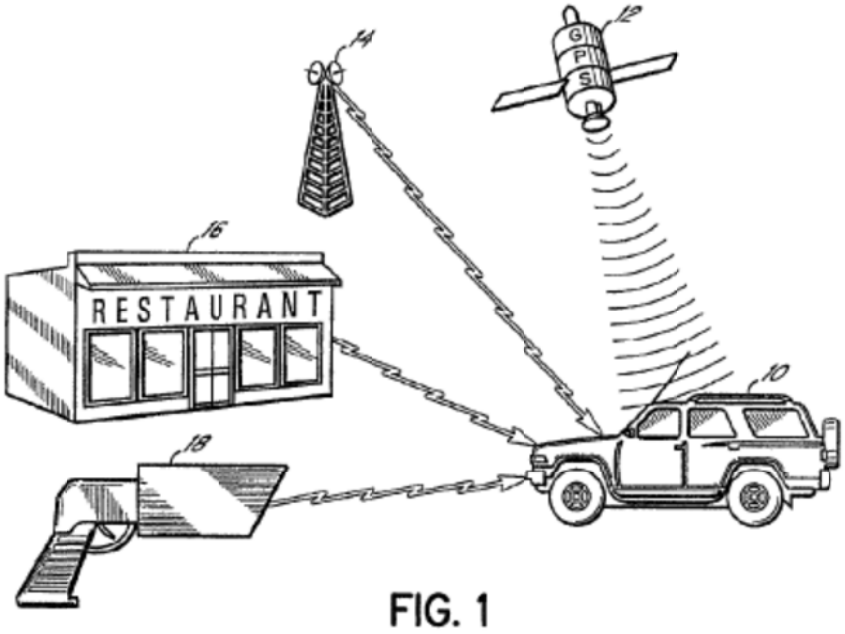


FIG. 1

’905 patent, Figure 1

As shown above in Figure 1, vehicle 10 can be equipped with a radar detector having a GPS receiver enabled to identify its present coordinates so as to distinguish between police radar gun 18 and false alarm radar signal from a stationary source at restaurant 16. *Id*. at col. 8, ll. 32–43. Furthermore, as described in the Specification, while in “location lockout” mode, the GPS-enabled radar detector can access a database and suppress all audible warnings of radar signals at a particular location associated with a known source of spurious police radar signals. *Id*. at col. 15, ll. 28–39. Claims 1 and 43 illustrate the claimed subject matter and are reproduced below:

1. A police warning receiver comprising:

a receiver section adapted to receive electromagnetic signals indicative of police activity;

an alert section responsive to the receiver section and adapted to provide an alert if a received electromagnetic signal correlates to a police signal; and

a position determining circuit generating a location signal;

wherein the alert section receives the location signal and is adapted to one of alter and not provide the alert if the location signal correlates to a location of a rejectable signal.

43. A police warning receiver comprising:

a receiver section adapted to receive electromagnetic signals indicative of police activity;

an alert section responsive to the receiver section and adapted to provide an alert if a received electromagnetic signal correlates to a police signal; and

a position determining circuit generating a location signal;

storage for vehicle history information identifying vehicle activities including geographic locations entered by a vehicle carrying said receiver.

D. Instituted Challenges

In the Institution Decision, we instituted an *inter partes* review on the following grounds:

Reference(s)	Basis	Claims challenged
US 6,252,544 (Ex. 1002) ("Hoffberg")	§ 102	1–4, 11, 15–18, 22–33, 36–38, 41–57, 59–72, and 74–85
US 6,204,798 (Ex. 1003) ("Fleming III")	§ 102	1–2, 4–6, 11–12, 15–16, 18, 22, 24–29, 36, 41–55, 57–72, and 74–85
Fleming III and Hoffberg	§ 103	1–6, 11–12, 15–18, 22–33, 36–38, 41–72, and 74–85

Dec. 21.

E. Claim Construction

The Board will interpret claims of an unexpired patent using the broadest reasonable construction in light of the specification of the patent. *See* Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,766 (Aug. 14, 2012); 37 C.F.R. § 42.100(b). Under the broadest reasonable construction standard, claim terms are given their ordinary and customary meaning as would be understood by one of ordinary skill in the art in the context of the entire disclosure. *In re Translogic Tech. Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007).

1. "provide an alert if a received electromagnetic signal correlates to a police signal"

Each of independent claims 1, 43, 54, 68, and 81 recite a "police warning receiver" comprising an "alert section," which is "adapted to provide an alert if a received electromagnetic signal correlates to a police signal." *See e.g.*, Ex. 1001, col. 25, ll. 48–49. Patent Owner argues that the "alert section" in independent claims 1, 43, 54, 68, and 81 requires a function beyond a mere detection of a signal. PO Resp. 14. Specifically, Patent Owner argues that the "alert" section

provides an alert to a signal only if a determination is made that the signal is a signal likely to be worth alerting, based on comparing it to the attributes of actual police signals. *Id*.

Patent Owner made similar arguments with respect to the "alert section" set forth in the challenged claims of related U.S. Patent No. 7,999,721 at issue in IPR2013–00203. For the same reasons set forth in the '203 Decision at pages 6–8, we are not persuaded by Patent Owner's argument that "correlates to a police signal" should be construed to mean an undefined determination made by comparing a received signal to the attributes of actual police signals. Accordingly, we construe "provide an alert if a received electromagnetic signal correlates to a police signal" as "provide an alert if a received electromagnetic signal correlates to one or more characteristics of a police signal."

2. "position determining circuit"

Claim 1 recites "a *position determining circuit* generating a location signal." Ex. 1001, col. 25, l. 50 (emphasis added). Independent claims 43 and 68 provide similar recitations regarding a "position determining circuit." Patent Owner proposes that "position determining circuit" should be construed to mean "a device for receiving information related to geographic locations." PO Resp. 22.

Patent Owner made similar arguments with respect to the "position determining circuit" set forth in the challenged claims of related U.S. Patent No. 7,999,721 at issue in IPR2013–00203. For the same reasons set forth in the '203 Decision at pages 6–8, we determine that the "position determining circuit" must be involved in determining the position of the device, rather than merely receiving information related to geographic locations of the device, as proposed by Patent

Owner. Accordingly, we construe "position determining circuit" as "a circuit for determining a position of a device."

3. "interface connector" and "communication circuitry"

Claim 16 recites "an interface connector, wherein signal information is stored in said storage via said interface connector." Ex. 1001, col. 26, ll. 61–62. Claims 52, 66, 75, 81, and 85 also recite an "interface connector." Claim 25 recites "communication circuitry for obtaining said signal information from an Internet resource." Ex. 1001, col. 27, ll. 42–43. Claims 26–27, 49–51, and 61–63 also recite "communication circuitry." Patent Owner proposes that to be consistent with the Specification, the terms "interface connector" and "communication circuitry" must be interpreted to require a circuit supporting a *wired, digital connection* of the types that are identified in the Specification. PO Resp. 24 (emphasis added). In support of its proposed construction, Patent Owner argues that the '905 patent describes communication with a general purpose computer via an interface connector in only one way — a wired digital connection to the police warning receiver. *Id.* at 24.

Patent Owner's arguments, however, are not supported by the language of the Specification. The '905 patent discloses:

> The interface connector used by the receiver *may take other forms* than the known USB standard. It may use any computer interface standard (e.g., IEEE 488), or an automotive wiring standard, the J1854, CAN, BH12 and LIN standards, *or others*.

Ex. 1001, col. 24, l. 66 – col. 25, l. 3 (emphases added).

Patent Owner argues that because wired connections are the only specific examples disclosed in the '905 patent, the terms "interface connector" and "communication circuitry" should be construed to exclude wireless interfaces.

PO Resp. 25. Even in cases where the specification describes only a single embodiment, however, we do not construe necessarily the claims as being limited to that embodiment. *Thorner v. Sony Computer Entm't Am. L.L.C.*, 669 F.3d 1362, 1365 (Fed. Cir. 2012) (holding that it is not enough that the only embodiment, or all of the embodiments, contain a particular limitation to limit a claim to that particular limitation). Moreover, we decline to add limitations into the claims in the absence of a special definition set forth in the Specification. Petitioner argues that the '905 patent does not limit the types of communication circuitry that can be used. Pet. Reply 13. We determine that because Patent Owner failed to set forth a special definition for the terms "interface connector" and "communication circuitry" in the '905 patent Specification, we are not persuaded to limit the construction of the terms to only wired communication. Accordingly, we do not adopt Patent Owner's proposal to construe the terms "interface connector" and "communication circuitry" to be limited only to wired connections.

4. "flags"

Petitioner argues that the claim term "flags" should be interpreted to include a code that identifies some condition. Pet. 14. In support of its construction, Petitioner cites to the discussion in the '905 patent Specification that the "host computer can also provide navigational functions to the driver, potentially using stored signal information and flag bits to provide the user with location-specific information about driving hazards and potential police stakeout locations." Pet. 14 (citing Ex. 1001, col. 9, ll. 63–67). The '905 patent Specification further discloses that "[t]he flag bits may identify various hazard conditions" and "'frequency lockout' bits, one for each frequency block identified by the radar receiver." Ex. 1001, col. 12, ll. 21–22, 35–36. Patent Owner does not address this proposed

construction. We agree with Petitioner that the '905 patent broadly discusses "flags" as providing information about conditions. *See* Ex. 1001, col. 9, ll. 63–67, col. 12, ll. 21–22, 35–36. Thus, for the foregoing reasons, we construe a "flag" as a code that identifies a condition.

5. "rejectable signals"

Petitioner argues that the claim term "rejectable signals" should be interpreted as including any signals that may be rejected based on the location with which they are associated. Pet. 15. In support, Petitioner cites to the discussion in the '905 Patent that "'[b]y adding GPS conditioning capabilities to a radar detector, the combination becomes a new product category that is capable of rejecting signals from any given location no matter what the nature of the microwave/laser signals might be from that location.'" Pet. 14–15 (quoting Ex. 1001, col. 4, ll. 37–41). Patent Owner does not address this proposed construction. We agree with Petitioner that the '905 patent specification discusses "rejectable signals" as signals received at particular location that can be rejected. *See* Ex. 1001, col. 4, ll. 37–41. Thus, for the foregoing reasons, we construe "rejectable signals" as signals that may be rejected based on the location with which they are associated.

II. ANALYSIS

A. Status of Fleming, III and Hoffberg as Prior Art

Patent Owner argues that both of the references relied upon by Petitioner, Fleming, III and Hoffberg, are not prior art because they have been antedated by a showing of a prior invention by the sole inventor of the '905 patent, Mr. Orr. PO Resp. 43. Specifically, Patent Owner argues that prior to January 27, 1998, the earliest effective date of Hoffberg (the effective filing date of Fleming, III is April

14, 1999), Mr. Orr "actually reduced to practice claims 1–6, 15–16, 22–29, 33, 41–52, 54–66, 68–72, 75, 77–83, and 85 of the '905 patent." *Id*. (citing Declaration of Steven K. "Steve" Orr ("Orr Declaration"), Ex. 2073 ¶ 5). In support of its allegation, Patent Owner provides a chart comparing the elements of claims 1–6, 15–16, 22–29, 33, 41–52, 54–66, 68–72, 75, 77–83, and 85 to the statements made in the Orr Declaration regarding Mr. Orr's efforts to reduce the claimed invention to practice. *Id.* at 44–57. From 1988 until February 14, 1997, Mr. Orr was the Manager of Advanced Technology at Cincinnati Microwave Inc. ("CMI"), the company from which Patent Owner acquired the '905 patent, and from July 1998 until the present, Mr. Orr has been a consultant for Patent Owner. *Id*. ¶ 4.

"In order to establish an actual reduction to practice, [a party] must establish three things: '(1) construct[ion of] an embodiment or perform[ance of] a process that met all the [claim] limitations [ ]; [ ](2) . . . determin[ation] that the invention would work for its intended purpose,'" and "(3) the existence of sufficient evidence to corroborate inventor testimony regarding these events." *Medichem, S.A. v. Rolabo, S.L.*, 437 F.3d 1157, 1169 (Fed. Cir. 2006) (quoting *Cooper v. Goldfarb*, 154 F.3d 1321, 1327, 1330 (Fed. Cir. 1998)). "A 'rule of reason' analysis is applied to determine whether the inventor's prior conception testimony has been corroborated." *Price v. Symsek*, 988 F.2d 1187, 1195 (Fed. Cir. 1993).

As Patent Owner establishes, the claims of the '905 patent relate to the "combination of a radar detector and [a] position[] determining circuit, e.g. a global positioning system ("GPS") receiver." PO Resp. 11; *see also* Ex. 1001, col. 4, ll. 36–40. In his Declaration, Mr. Orr testifies that "[p]rior to January 27, 1998, I actually reduced to practice claims 1–6, 15–16, 22–29, 33, 41–52, 54–66, 68–72, 75, 77–83, and 85 of the '905 patent." Ex. 2073 ¶ 5. Mr. Orr's

testimony regarding his actual reduction to practice is based upon his work on two prototypes, one in 1992 and another in 1996. *See id*. ¶¶ 5–82. In the related case of IPR2013–00203, the Patent Owner also relied upon a similar declaration from Mr. Orr and argued that Mr. Orr actually reduced to practice the claims of the patent at issue in that proceeding prior to the effective dates of Hoffberg and Fleming, III. *See* '203 Decision, 12–17. For the reasons set forth below, similar to the determination made in the '203 Decision at pages 15–17, we determine that Patent Owner fails to prove by a preponderance of the evidence its claims of reduction to practice of the claims 1–6, 15–16, 22–29, 33, 41–52, 54–66, 68–72, 75, 77–83, and 85 of the '905 patent prior to January 27, 1998.

1. 1992 Prototype

Mr. Orr testifies that in 1992, he created and experimented with a prototype including an Escort Passport 3100 or 3200 Radar Detector and a "position determining circuit in the form of a Lanier tape recorder to record the corresponding geographical location of the radar signal." *Id*. ¶¶ 5–6. The Lanier tape recorder was used by Mr. Orr to record his voice stating the geographic location of his vehicle when the radar detector encountered a radar signal sufficient for alert. *Id.* ¶ 6. Specifically, Mr. Orr alleges that the Lanier tape recorder in the 1992 prototype meets the claimed limitation of a "position determining circuit." *Id*.

We determine that Mr. Orr's testimony regarding the 1992 prototype is insufficient to establish that the embodiment constructed met all the limitations of the claimed invention. *See Medichem*, 437 F.3d at 1169 (holding that actual reduction to practice requires "construct[ion of] an embodiment . . . that met all the limitations") (citations omitted). As discussed above, we construe the term

"positioning determining circuit" as "a circuit for *determining* a position of a device" (emphasis added). The Lanier tape recorder used by Mr. Orr in the 1992 prototype was used merely as an electronic notepad to record the notes of Mr. Orr regarding his observations during tests with the radar detector. *See Tr*. 14:19–23.[1] Mr. Orr could have performed the same task with a pen and paper. Contrary to requirements of the claimed invention, the Lanier tape recorder could not be relied upon to *determine* the position of the police activity warning device. Therefore, the 1992 prototype fails at least to meet the limitation of a "position determining circuit."

2. 1996 Prototype

With respect to the 1996 prototype, Mr. Orr provides testimony regarding test data obtained through the testing with a Rockwell NavCard and a laptop. *See* Ex. 2073 ¶¶ 32–76. Generally, Mr. Orr states in his Declaration that "my prototype had a position determining circuit" and an alert section that would "alter and/or not provide the alert if the location signal correlated to a location of a rejectable signal." *Id*. ¶ 92. Mr. Orr further testifies that he drafted software code to demonstrate the GPS lockout concept of the claimed invention with the 1996 prototype. *Id*. ¶ 78.

The only software file in the record, however, that Patent Owner alleges existed prior to January 27, 1998 is the file titled tst4600k.bas (Ex. 2086). Tr. 35:13–21. Mr. Orr concedes that there is no software code in this tst4600k.bas file that relates to a position determining circuit. *Id.* at 35, l. 25–36, l. 3 (Q: "there

[1] At the oral hearing, Mr. Orr testified: "I would take the Lanier recorder and I would speak into it, this is the tenth event, and I would speak the words of the conditions that were present during that moment." Tr. 14, ll. 19–23.

is nothing in this particular file, Exhibit 2086, that relates to a position determining circuit?"; A: "No."). Mr. Orr testified that the tst4600k.bas file (Ex. 2086) is missing forty-seven lines of code that provided the functionality of the position determining circuit. *Id.* at 36, ll. 13–20. Mr. Orr further testified that Patent Owner was unable to recover any file containing the missing forty-seven lines of code. *Id*. The record includes additional software code files drafted by Mr. Orr, graph2.bas (Ex. 1010) and graph3.bas (Ex. 1011, 1012), which Mr. Orr alleged implemented the position determining circuit. Ex. 1018, 30, l. 6–31, l. 21; Ex. 1023, 28, ll. 5–8. Tr. 35:6–24. The graph2.bas and graph3.bas files, however, were drafted by Mr. Orr in 2010 and later for the purposes of litigation. *See* Ex. 1018, 30, l. 6–31, l. 21.

In the analogous case of *In re NTP, Inc.*, 654 F.3d 1279, 1291 (Fed. Cir. 2011), the Federal Circuit affirmed the Board's determination that the evidence provided by the patent applicant did not corroborate sufficiently the inventor's claimed actual reduction to practice of an electronic mail system. *Id.* at 1291. In that case, NTP argued that a Telefind E-mail Integration document ("Telefind") would corroborate the inventor's testimony. *Id*. NTP submitted Revision 2 of the Telefind document, dated after the critical date, as evidence of Revision 0 of the Telefind document, allegedly created before the critical date. *Id*. NTP's inventor testified that the Telefind document was not changed significantly from Revision 0 to Revision 2. The Federal Circuit rejected NTP's argument as circular because NTP sought to corroborate the inventor's testimony with the Telefind document, but, at the same time, attempted to corroborate the date of the Telefind document with the inventor's testimony. *Id*. Similarly, here, Patent Owner attempts to corroborate Mr. Orr's testimony regarding the reduction to practice of the GPS

lockout concept and the position determining circuit with the tst4600k.bas file (Ex. 2086), but, at the same time, attempts to corroborate the missing functionality from this file with inventor testimony regarding later versions of the file created long after the effective date of the asserted prior art.

Patent Owner fails to provide any objective evidence to corroborate Mr. Orr's testimony that he reduced to practice the GPS lockout concept and associated position determining circuit prior to January 27, 1998 other than the tst4600k.bas file (Ex. 2086), which he concedes does not incorporate the position determining circuit. *See* Ex. 2073 ¶¶ 79–95. For example, Mr. Orr states in his Declaration that he "used the laptop and the spacebar in the laboratory in Stage 1 to illustrate the GPS lockout concept to other CMI employees," but failed to cite any evidence to corroborate this testimony. *Id*. ¶ 80. Furthermore, Mr. Orr states in his Declaration that "my prototype had a position determining circuit" and an alert section that would "alter and/or not provide the alert if the location signal correlated to a location of a rejectable signal." *Id*. ¶ 92. Patent Owner fails, however, to cite to any evidence to corroborate this testimony by Mr. Orr. *See id*. ¶¶ 80, 92. Mr. Orr was questioned at the oral hearing as to whether there was any evidence in the record of the successful test results or observations of the GPS lockout feature that Mr. Orr alleged to have reduced to practice in his Declaration. Tr. 39:15–41:5. During the hearing, Mr. Orr testified that he was not aware of any documents submitted in the record by Patent Owner providing such test results or observations. *See id*.

Furthermore, Mr. Orr provided similarly uncorroborated testimony regarding additional features of the prototype as recited in claims 54 and 81. For example, Mr. Orr stated that the ThinkPad 750C provided storage of signal information and

that the "ThinkPad 750C archived two 16-bit signal identifiers of lockout information at 25 locations in the locked.loc file." Ex. 2073 ¶ 93. Mr. Orr fails to indicate how this portion of the prototype provided the dynamically allocatable storage device for storing information usable by the receiver or alert sections in receiving or correlating electromagnetic signals, as required by claim 54. Furthermore, Mr. Orr stated that the prototype had an interface connector and that the "prototype was also configurable in response to digital signals received via the digital interface connector." *Id*. ¶ 95. Mr. Orr fails to indicate, however, how the prototype was configurable, in accordance with claim 81, or what digital signals were sent. Moreover, Patent Owner fails to provide any objective evidence to corroborate Mr. Orr's testimony regarding these features of the prototype.

In addition to a failure to provide sufficient objective evidence supporting the actual reduction to practice in the 1996 prototype, Patent Owner fails to provide sufficient corroborating testimony by others that witnessed Mr. Orr's prototype successfully implementing the claimed features. Specifically, Patent Owner submitted testimony from four declarants, fellow employees of Mr. Orr at CMI: (1) Beth Andrews (Ex. 2053), (2) Gregory Blair (Ex. 2054), (3) Jim Brandon (Ex. 2055), and (4) Daniel Kindel (Ex. 2056). Ms. Andrews and Mr. Blair testified only that in 1996, the GPS lockout concept was a desired feature for a future radar detector product by CMI. *See* Ex. 2053 ¶¶ 3–4; Ex. 2054 ¶¶ 3–5. Neither Ms. Andrews nor Mr. Blair testified, however, that they witnessed or even were aware of an actual reduction to practice of a prototype. *See* Ex. 2053 ¶¶ 3–4; Ex. 2054 ¶¶ 3–5. Mr. Kindel testified that in 1996, Mr. Orr was conducting research into the benefits and feasibility of adding GPS to a radar detector, but Mr. Kindel failed to state that he witnessed an actual reduction to practice of such a

prototype. *See* Ex. 2056 ¶ 3–5. Finally, Mr. Brandon testified that during his time at CMI, he was aware that Mr. Orr was working on a GPS enabled radar detector prototype prior to 1998 and the "purpose of this prototype was to mark the locations of false radar signals." Ex. 2055 ¶ 2–3. Mr. Brandon fails, however, to state that he witnessed or even was aware of an actual reduction to practice of such a prototype. *See id*.

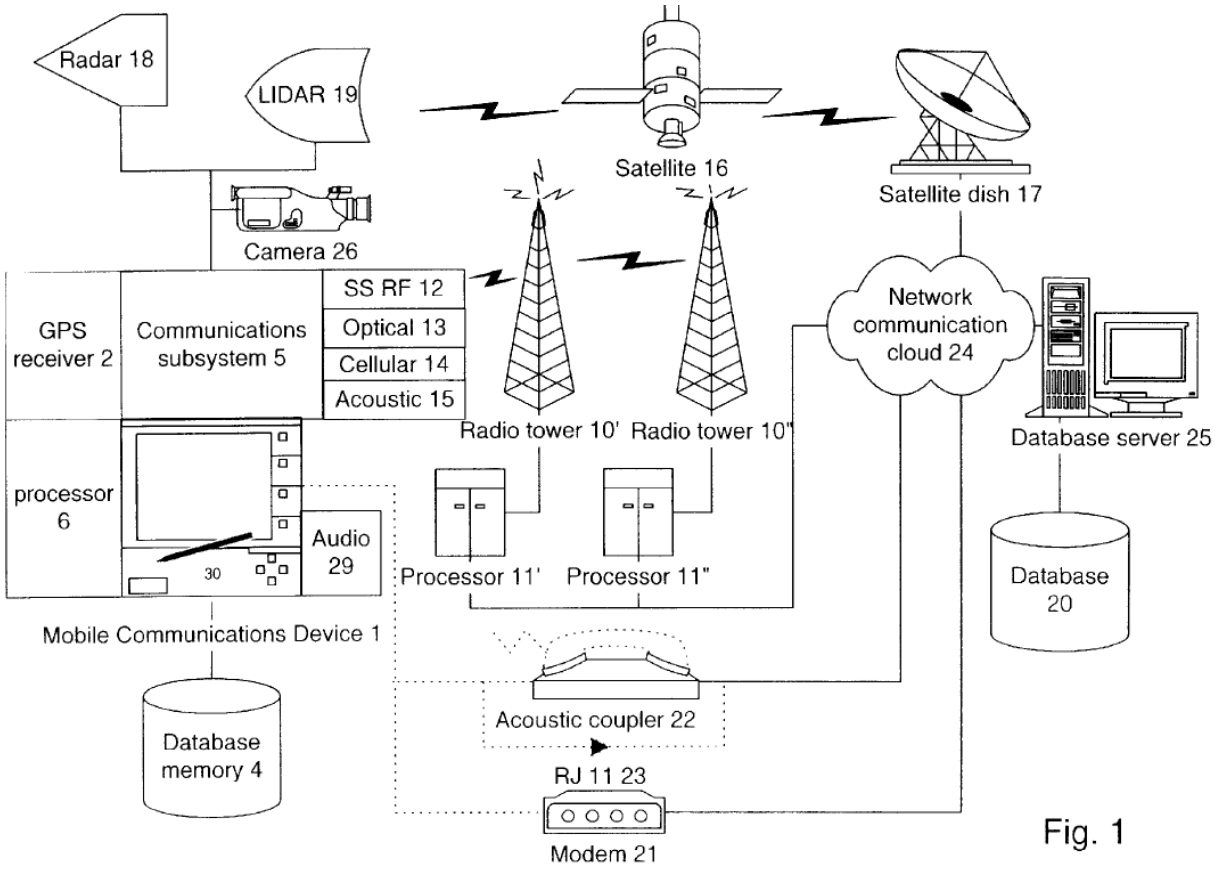
Here, the only evidence of the successful reduction to practice of the claimed invention for its intended purpose prior to January 27, 1998 is the testimony of the inventor, Mr. Orr. "It has long been the case that an inventor's allegations of earlier invention alone are insufficient—an alleged date of invention must be corroborated." *In re NTP, Inc.*, 654 F.3d at 1291 (citing *Medichem*, 437 F.3d at 1170; *Woodland Trust v. Flowertree Nursery, Inc.*, 148 F.3d 1368, 1371 (Fed. Cir. 1998)). We conclude that the record is lacking sufficient evidence corroborating Mr. Orr's testimony, which alone is insufficient. In view of the foregoing, we determine that Patent Owner has failed to prove by a preponderance of the evidence its claim of reduction to practice of the claims 1–6, 15–16, 22–29, 33, 41–52, 54–66, 68–72, 75, 77–83, and 85 of the '905 patent prior to January 27, 1998. Therefore, Hoffberg and Fleming, III are prior art to the '905 patent.

B. Anticipation by Hoffberg

Petitioner contends that claims 1–4, 11, 15–18, 22–33, 36–38, 41–57, 59–72, and 74–85 of the '905 patent are anticipated by Hoffberg. Pet. 15–48. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros., Inc. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987).

1. Overview of Hoffberg

Hoffberg discloses a mobile communication device "including police radar and LIDAR detectors, user output, memory, central processor, GPS receiver and RF transceiver." Ex. 1002, col. 24, ll. 29–32. The mobile communication device in Hoffberg is enabled to process current location information in conjunction with stored locations and associated events to determine a priority of the associated events. *Id.* at Abstr. Figure 1 of Hoffberg is reproduced below.



Hoffberg, Figure 1

As shown above in Figure 1, mobile communications device 1 can include location sensing system 2 for producing a location output, memory 4 for storing a set of locations and associated events, and processor 6. *Id.* at col. 26, ll. 36–40. Mobile

communications device 1 in Hoffberg also includes an event detector having radar detector 18 and LIDAR detector 19. *Id.* at col. 30, ll. 44–46. Hoffberg discloses that its mobile communications device 1 can suppress false alarms by correlating detecting events with false alarm events stored in memory 4. *Id.* at col. 29, ll. 8–11 ("It is noted that, in the case of 'false alarms', the response of the unit is to detect the event, e.g., radar signal, correlate it with a stored 'false alarm' event, and suppress an alarm or modify the alarm signal."). "Thus, information stored in memory and/or transmitted between units, may signify an important alarm or a suppression of an erroneous alarm." *Id.* at col. 29, ll. 11–13.

Hoffberg discloses that its mobile communications device 1 can filter sensor outputs based on present sensor outputs, past experience with a particular location in question, and the experience of others at the particular location. Ex. 1002, col. 28, l. 63 – col. 29, l. 4. Furthermore, Hoffberg discloses that further information can be stored about a detected event in addition to the location and source of the event. *Id.* at col. 30, ll. 20–24. For example, Hoffberg discloses that "mobile police radar 'traps' are often relocated," so these types of events can be stored with an expiration date. *Id.* at col. 30, ll. 31–35.

2. Analysis

a. Claims 1–4, 15, 17–18, 22–24, 28–29, 31–33, 41–48, 53–57, 59–60, 64–65, 67–72, and 76–84

Petitioner contends that independent claims 1, 43, 54, 68, and 81 are anticipated by Hoffberg. Pet. 15–20, 35–36, 38–39, 42–43, and 46–47. Patent Owner counters that Mr. Orr has antedated successfully Hoffberg. PO Resp. 42–43. As discussed above, we are not persuaded by Patent Owner's attempt to prove

actual reduction to practice prior to the effective date of Hoffberg on January 27, 1998.

As to the merits of the proposed grounds of anticipation with respect to the independent claims 1, 43, 54, 68, and 81, Patent Owner argues that Hoffberg fails to disclose the correlation of a received signal to a law enforcement signal. PO Resp. 29. Specifically, Patent Owner argues that "Hoffberg does not distinguish police signals from other types of signals, so that a warning is provided only 'if a received signal correlates to a law enforcement signal,' as is recited in all of the Orr claims." *Id*. at 29.

Claim 1 recites an "alert section responsive to the receiver section and adapted to provide an alert if a received electromagnetic signal correlates to a police signal." Ex. 1001, col. 25, ll. 47–49. Independent claims 43, 54, 68, and 81 provide a similar recitation. With respect to this limitation of independent claims 1, 43, 54, 68, and 81, Petitioner cites to Hoffberg's disclosure of the use of a "modified commercially available radar detector, to produce a serial data stream or parallel signal set." Pet. 17–18 (citing Ex. 1002, col. 33, ll. 10–18). Patent Owner argues that Hoffberg's disclosure is deficient because the claimed "correlates" limitation requires the device to distinguish between police activities and non-police activities. PO Resp. 29.

We are not persuaded by Patent Owner's arguments because they are not commensurate with the scope of the claims. As discussed above, we construe the phrase "provide an alert if a received electromagnetic signal correlates to a police signal" as "provide an alert if a received electromagnetic signal correlates to one or more characteristics of a police signal." The '905 patent Specification describes that this correlation may be implemented based on "any of the techniques"

described in the many patents incorporated by reference in the Specification. Ex. 1001, col. 8, ll. 50–56. Therefore, the correlate limitation recited in the independent claims can involve many prior art techniques, such as those disclosed in Hoffberg.

For example, Petitioner argues that Hoffberg discloses the use of a "commercially available radar detector." Pet. Reply 15 (citing Ex. 1002, col. 33, ll. 9–15). More particularly, Hoffberg discloses "an event sensor is provided, such as a police radar and laser speed detection system (e.g., "radar detector")" to detect signals and determine whether they correlate to a law enforcement signal. Ex. 1002, col. 33, ll. 9–15. We determine, therefore, that Hoffberg discloses the claimed correlating limitation.

Based on the evidence presented, we conclude that Petitioner has established by a preponderance of evidence that Hoffberg discloses all limitations of independent claims 1, 43, 54, 68, and 81. Patent Owner does not address dependent claims 2–4, 15, 17–18, 22–24, 28–29, 31–33, 41–42, 44–48, 53, 55–57, 59–60, 64–65, 67, 69–72, 76–80, and 82–84 with separate, specific arguments against the anticipation challenge based on Hoffberg. *See* PO Resp. 28–38. As to dependent claims 2–4, 15, 17–18, 22–24, 28–29, 31–33, 41–42, 44–48, 53, 55–57, 59–60, 64–65, 67, 69–72, 76–80, and 82–84, Petitioner provides sufficient evidence to show that Hoffberg discloses the additional recited limitations in those claims. Pet. 20–26, 28–32, 34–48. For example, Petitioner argues that the claim 15 limitation that the information associated with geographic locations includes information identifying rejectable signals at a geographic location is met by Hoffberg's disclosure that "further information is also stored, such as a time of the event, its character or nature, and other quantitative or qualitative aspects." Pet. 21

(quoting Ex. 1002, col. 18, l. 64–col. 19, l. 4 (emphasis omitted)). In a further example, Petitioner argues that the claim 28 requirement that the police warning receiver include "storage for vehicle history information identifying vehicle activities including geographic locations" is met by Hoffberg's disclosure that the "memory stores information describing the event as well as the location of the event." Pet. 29 (quoting Ex. 1002, col. 22, ll. 18–29 (emphasis omitted)).

For the foregoing reasons, we conclude that Petitioner has established by a preponderance of evidence that claims 1–4, 15, 17–18, 22–24, 28–29, 31–33, 41–48, 53–57, 59–60, 64–65, 67–72, and 76–84 are anticipated by Hoffberg.

b. Claims 16, 25–27, 49–52, 61–63, 66, 75, 81, and 85

Petitioner contends that claims 16, 25–27, 49–52, 61–63, 66, 75, 81, and 85 are anticipated by Hoffberg. Pet. 22–23, 27–28, 37–38, 40–42, 44–45, 46–47, 48. Claim 16 recites "an interface connector, wherein signal information is stored in said storage via said interface connector." Ex. 1001, col. 26, ll. 61–62. Petitioner argues that the limitations of claim 16 are met by Hoffberg's disclosure, *inter alia*, of a device that includes a "GPS receiver" that outputs coordinate positions through "a serial port or data bus, such as [a] PC card, Universal serial Bus (USB), Firewire (IEEE 1394), peripheral connect interface (PCI), or other bus." Pet. 23 (quoting Ex. 1002, col. 26, ll. 47–54 (emphasis omitted)). Furthermore, Petitioner relies upon similar disclosure in Hoffberg as meeting the "interface connector" limitation also recited in Claims 52, 66, 75, 81, and 85. *See* Pet. 38, 41–42, 44–48.

Claim 25 recites "communication circuitry for obtaining said signal information from an Internet resource." Ex. 1001, col. 27, ll. 42–43. Petitioner argues that the limitations of claim 25 are met by Hoffberg's disclosure that a central repository of event data can be provided on the Internet and

communications with the central repository may occur via a physical or wireless connection using various communication schemes. Pet. 27 (citing Ex. 1002, col. 24, ll. 4–11, col. 28, ll. 5–8). Furthermore, Petitioner relies upon a similar disclosure in Hoffberg as meeting the "communication circuitry" limitation also recited in Claims 26–27, 49–51, and 61–63. *See* Pet. 28, 37–38, 40–41.

Patent Owner argues that Hoffberg fails to anticipate claims 16, 25–27, 49–52, 61–63, 66, 75, 81, and 85 because the "interface connector" or "communication circuitry" recited in each claim must be a *wired digital connection* suitable for use with a host computer. PO Resp. 31–32. Patent Owner further argues that Hoffberg discloses only a radio frequency transceiver for transmitting event data to, and receiving event data from, a database server remote from mobile communications device 1 and, thus, fails to disclose a wired digital connection. *Id*. at 32. As discussed above, we do not adopt Patent Owner's proposed construction that the "interface connector" and "communication circuitry" be limited only to wired connections. Accordingly, we determine that the cited Hoffberg disclosures meet the limitations of an "interface connector," recited in claims 16, 52, 66, 75, 81 and 85 and "communication circuitry," recited in claims 25–27, 49–51, and 61–63.

For the foregoing reasons, we conclude that Petitioner has demonstrated by a preponderance of the evidence that claims 16, 25–27, 49–52, 61–63, 66, 75, 81, and 85 are anticipated by Hoffberg.

c. Claims 30

Petitioner contends that claim 30 is anticipated by Hoffberg. Pet. 30–31, 33. Claim 30 requires that the police warning receiver is responsive to user input confirming police activity and identifying a geographic location as "not rejectable." Ex. 1001, col. 27, ll. 47–49. Petitioner argues that the limitations of

claim 30 are met by Hoffberg's disclosure when "event information from that origin is deemed unreliable, all records form that source may be purged." Pet. 31 (citing Ex. 1002, col. 31, ll. 18–20).

Patent Owner argues that Hoffberg fails to anticipate claim 30 because Petitioner fails to identify that Hoffberg marks locations as "non rejectable." PO Resp. 33. Contrary to Patent Owner's arguments, Hoffberg discloses determining the reliability of certain signal information. *See* Ex. 1002, col. 31, ll. 18–20 ("if event information from that origin is deemed unreliable"). Furthermore, Dr. Chris Bartone, testifying on behalf of Petitioner, explains that Hoffberg discloses determining that certain events are unreliable and improving analysis from the sensor by relying upon the "experience of others at that location" and storing an event that is correlated with a "stored 'false alarm' event." Ex. 1007 ¶¶ 59–60 (citing Ex. 1002, col. 28, ll. 42–46, col. 28, l. 61–col. 29, l. 11). In addition to determining that certain event information is unreliable, Hoffberg expressly discloses determining that certain event information is reliable or important information. Ex. 1002, col. 29, ll. 11–13. Specifically, Hoffberg states that "information stored in memory and/or transmitted between units, may signify an *important alarm* or a suppression of an erroneous alarm." Ex. 1002, col. 29, ll. 11–13. Accordingly, we are not persuaded by Patent Owner's arguments that Hoffberg fails to disclose marking locations as "non rejectable."

For the foregoing reasons, we conclude that Petitioner has demonstrated by a preponderance of the evidence that claim 30 is anticipated by Hoffberg.

d. Claim 36–38

Petitioner contends that claims 36–38 are anticipated by Hoffberg. Pet. 32–34. Claim 36 recites that the police warning receiver "tracks geographic locations

in which electromagnetic signals are continuously received." Claims 37 and 38 depend from claim 36. Petitioner argues that the limitations of claim 36 are met by Hoffberg's disclosure that "sensor outputs may be filtered based on past experience with the particular location in question." Pet. 33 (citing Ex. 1002, col. 28, l. 61 – col. 29, l. 11). Furthermore, Petitioner cites Hoffberg's disclosure that false alarms due to security systems, traffic control, and monitoring systems may be recorded. Pet. 33 (citing Ex. 1002, col. 30, ll. 36–38).

Patent Owner argues that Hoffberg fails to anticipate claim 36 because it does not disclose a receiver that "tracks geographic locations" when the same signal is received continuously. PO Resp. 34. Patent Owner argues that claim 36 requires tracking a "continuously received signal." For example, the Specification of the '905 patent states that "[s]o long as an apparent police radar signal is being continuously detected, the detector will remain in signal tracking mode in order to associate that police radar signal with all of the geographic locations in which it was detected." Ex. 1001, col. 18, ll. 11–15. The portions of Hoffberg cited by Petitioner disclose the improvement of false alarm identification from a variety of sources (security systems, traffic control, and monitoring systems), but fail to disclose a continuously received signal, much less tracking the geographic locations of continuously received signals.

For the foregoing reasons, we determine that Petitioner has not demonstrated by a preponderance of the evidence that claim 36, and claims 37–38 dependent from claim 36, are anticipated by Hoffberg.

e. Claim 11–12, and 74

Petitioner contends that claims 11–12 and 74 are anticipated by Hoffberg. Pet. 30–31, 33. Claim 11 recites that the police warning receiver includes "storage

for flags associated with geographic locations, said flags identifying rejectable signals at each geographic location." Ex. 1001, col. 26, ll. 25–27. Claim 12 is dependent from claim 11 and claim 74 provides similar recitations regarding "flags identifying rejectable signals." *Id*. at col. 26, ll. 29–32; col. 31, ll. 12–13. Petitioner argues that the limitations of claim 11 are met by Hoffberg's disclosure that its device provides storage for events and their respective locations and "further information is also stored, such as a time of the event, its character or nature, and other quantitative or qualitative aspects of the information." Pet. 21 (quoting Ex. 1002, col. 18, l. 64 – col. 19, l. 4).

As discussed above, we construe a "flag" as a code that identifies a condition. Patent Owner argues that claim 11 requires that multiple flags are stored for each geographic location and that the purpose of the flags is for identifying signals to be rejected. PO Resp. 36. Furthermore, Patent Owner argues that Hoffberg fails to disclose the required elements of claim 11, namely, "storing flags representing *multiple signals in association with a particular location*." PO Resp. 38 (quoting Ex. 2074, 29–30 (emphasis added)).

Patent Owner's arguments are not commensurate with the scope of claim 11. Claim 11 recites "storage for flags associated with geographic locations" and "said flags identifying rejectable signals at each geographic location." Thus, claim 11 requires a plurality of flags associated with a plurality of geographic locations. Claim 11 does not require, however, multiple flags for each geographic location, but merely that each of the plurality of flags identify rejectable signals at a respective geographic location. Accordingly, we are not persuaded by Patent Owner's argument that Hoffberg fails to disclose storing flags representing multiple signals in association with a particular location.

For the foregoing reasons, we conclude that Petitioner has demonstrated by a preponderance of the evidence that claims 11–12, and 74 are anticipated by Hoffberg.

C. Anticipation by Fleming, III

1. Overview of Fleming, III

Fleming, III discloses a radar detector for alerting an operator of a motor vehicle to an incoming police radar signal. Ex. 1003, Abstr. "Upon detection of an incoming radar signal, the radar detector can utilize the position, velocity, and/or heading data from the global positioning system receiver to *determine whether to generate an alert*." *Id.* (emphasis added). Figure 1 of Fleming, III is reproduced below.

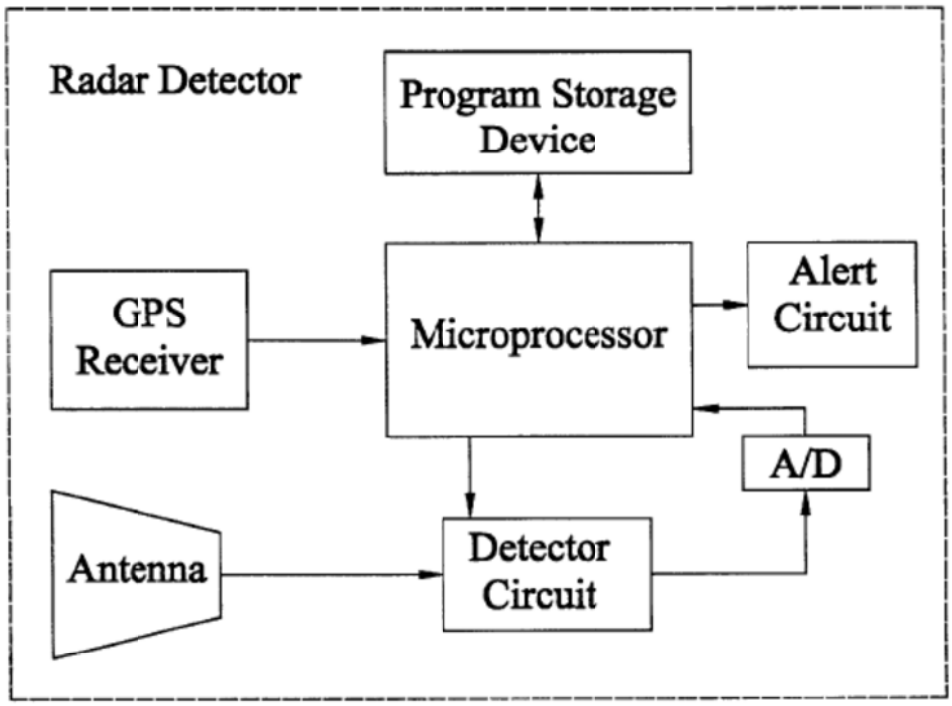


Fig. 1

Fleming, III, Figure 1

As shown above in Figure 1, Fleming, III discloses a radar detector having a detector circuit to collect radar signals from an antenna, a microprocessor to process those signals, and an alert circuit to communicate information regarding detected radar signals to the operator of a motor vehicle. *Id.* at col. 2, ll. 25–29, 50–53. The radar detector in Fleming, III also includes a GPS receiver, which can be used to calculate the location, velocity, and heading of the radar detector. *Id.* at col. 3, ll. 10–22.

Fleming, III further discloses that the storage device contains code that commands the microprocessor to determine whether to generate an alert based upon the position, velocity, and heading data received from the GPS receiver.

Ex. 1003, col. 3, ll. 30–36. "By utilizing the above method, many false alarms may be eliminated." *Id.* at col. 3, ll. 44–45. Thereby, Fleming, III discloses a method by which the user of the radar detector can program certain locations as false alarm locations. *See id.* at col. 3, ll. 53–60. Fleming, III discloses that "if an operator of a motor vehicle approaches a microwave automatic door opener, then the operator can depress an *'ignore radar' button*," and the "radar detector would store the position of the radar detector and possibly the frequency and the signal strength of the incoming radar signal in the program storage device of FIG. 1." *Id.* at col. 3, ll. 55–60 (emphasis added). Alternatively, Fleming, III discloses that the radar detector user can hold down a "mute" button to designate a particular location as a false alarm location. *Id.* at col. 3, ll. 63–65. Furthermore, the radar detector can access a database containing position, frequency, and signal strength for specific geographic regions identified by others as false alarm locations. *Id.* at col. 3, l. 65–col. 4, l. 5.

2. Analysis

a. Claims 1–2, 4–6, 15, 18, 22, 24, 28–29, 41–48, 53–55, 57–60, 64–65, 67–72, 76–84

Petitioner contends that independent claims 1, 43, 54, 68, and 81 are anticipated by Fleming, III. Pet. 48–49, 52–54, and 56–58. Patent Owner counters that Mr. Orr has antedated successfully Fleming, III. PO Resp. 42–43. As discussed above, we are not persuaded by Patent Owner's attempt to prove actual reduction to practice prior to the effective date of Fleming, III.

As to the merits of the proposed grounds of anticipation with respect to the independent claims 1, 43, 54, 68, and 81, Patent Owner argues that Fleming, III fails to disclose the correlation of a received signal to a law enforcement signal.

PO Resp. 30. Specifically, Patent Owner argues that "Fleming has no step for determining whether the detected incoming radar signal does or does not correlate to a law enforcement signal, as is stated in the Orr claims." *Id*. at 30–31.

Claim 1 recites an "alert section responsive to the receiver section and adapted to provide an alert if a received electromagnetic signal correlates to a police signal." Ex. 1001, col. 25, ll. 47–49. Independent claims 43, 54, 68, and 81 provide a similar recitation. With respect to this limitation of independent claims 1, 43, 54, 68, and 81, Petitioner cites to Fleming, III's disclosure of an alert circuit that communicates information regarding detected radar signals to the operator or a motor vehicle using the radar detector. Pet. 49 (citing Ex. 1003, col. 2, ll. 49–58). Patent Owner argues that Fleming, III's disclosure is deficient because Fleming, III fails to mention identifying a correlation between a signal and law enforcement signals. PO Resp. 31 (citing Ex. 2074 ¶¶ 53–58).

We are not persuaded by Patent Owner's arguments because they are not commensurate with the scope of the claims. As discussed above, we construe the phrase "provide an alert if a received electromagnetic signal correlates to a police signal" as "provide an alert if a received electromagnetic signal correlates to one or more characteristics of a police signal." The '905 patent Specification describes that this correlation may be implemented based on "any of the techniques" described in the many patents incorporated by reference in the Specification. Ex. 1001, col. 8, ll. 50–56. Therefore, the correlate limitation recited in the independent claims can involve many prior art techniques, such as those disclosed in Fleming, III.

Patent Owner's arguments fail to acknowledge that Fleming, III discloses that the purpose of its detector circuit is to identify a correlation between a

received signal and law enforcement signals. *See* Ex. 1003, col. 2, ll. 30–49. For example, Fleming, III discloses that a microprocessor can control the detector circuit "so that radar signals in the different frequency bands allocated to police radar signals are detected" and that the detector circuit can identify the strength, presence, and frequency of incoming radar signals. Ex. 1003, col. 2, ll. 30–49. As Petitioner points out, Fleming, III also discloses operating the radar detector in different modes, such as city and highway modes, to improve signal correlation. Pet. Reply 13 (citing Ex. 1003, col. 3, ll. 24–28). Additionally, Petitioner argues that Fleming, III only discloses activating the alert circuit after it has been verified that the signal strength of the detected radar signal exceeds a predetermined value. *Id*. at 14 (citing Ex. 1003, col. 2, l. 59–col. 3, l. 9). In view of the disclosures in Fleming, III, we are not persuaded by Patent Owner's arguments that Fleming, III fails to disclose the correlation of a received signal to a law enforcement signal.

Based on the evidence presented, we conclude that Petitioner has established by a preponderance of evidence that Fleming, III discloses all limitations of independent claims 1, 43, 54, 68, and 81. Patent Owner does not address dependent claims 2, 4–6, 15, 18, 22, 24, 28–29, 41–42, 44–48, 53, 55, 57–60, 64–65, 67, 69–72, 76–80, and 82–84 with separate, specific arguments against the anticipation challenge based on Fleming, III. *See* PO Resp. 28–38. As to dependent claims 2, 4–6, 15, 18, 22, 24, 28–29, 41–42, 44–48, 53, 55, 57–60, 64–65, 67, 69–72, 76–80, and 82–84, Petitioner provides sufficient evidence to show that Fleming, III discloses the additional recited limitations in those claims. Pet. 48–58. For example, Petitioner argues that the claim 15 limitation that the information associated with geographic locations includes information identifying rejectable signals at a geographic location is met by Fleming, III's disclosure that

"the radar detector would store the position of the radar detector and possibly the frequency and the signal strength of the incoming radar signal in the program storage device." Pet. 50–51 (quoting Ex. 1003, col. 3, ll. 53–63).

For the foregoing reasons, we conclude that Petitioner has established by a preponderance of evidence that claims 1–2, 4–6, 15, 18, 22, 24, 28–29, 41–48, 53–55, 57–60, 64–65, 67–72, and 76–84 are anticipated by Fleming, III.

b. Claims 16, 25–27, 49–52, 61–63, 66, 75, 81, and 85

Petitioner contends that claims 16, 25–27, 49–52, 61–63, 66, 75, 81, and 85 are anticipated by Fleming, III. Pet. 50–58. Claim 16 recites "an interface connector, wherein signal information is stored in said storage via said interface connector." Ex. 1001, col. 26, ll. 61–62. Petitioner argues that the limitations of claim 16 are met by Fleming, III's disclosure, *inter alia*, of a device for which the "database could be stored on the program storage device of FIG. l or could be stored on an external storage device such as a CD ROM or 15 a hard disk drive" and that the storage device could be any conventional memory device, including PROM, EPROM and DRAM. Pet. 50 (quoting Ex. 1003, col. 2, ll. 61–64, col. 6, ll. 13–16). Furthermore, Petitioner relies upon similar disclosure in Fleming, III as meeting the "interface connector" limitation also recited in Claims 52, 66, 75, 81, and 85. *See* Pet. 54–58.

Claim 25 recites "communication circuitry for obtaining said signal information from an Internet resource." Ex. 1001, col. 27, ll. 42–43. Petitioner argues that the limitations of claim 25 are met by Fleming, III's disclosure to generate a database of radar signal data for a specific geographic region providing that database to the device by "[a]ccessing the Internet via a cellular phone (not shown) coupled to the microprocessor of FIG. 1." Pet. 51 (citing Ex. 1003, col. 3,

l. 64–col. 4, l. 5). Furthermore, Petitioner relies upon similar disclosure in Hoffberg as meeting the "communication circuitry" limitation also recited in Claims 26–27, 49–51, and 61–63. *See* Pet. 51–55.

Patent Owner argues that Fleming, III fails to anticipate claims 16, 25–27, 49–52, 61–63, 66, 75, 81, and 85 because the "interface connector" or "communication circuitry" recited in each claim must be a *wired digital connection* suitable for use with a host computer. PO Resp. 31–32. As discussed above, we do not adopt Patent Owner's proposed construction that the "interface connector" and "communication circuitry" be limited only to wired connections. Accordingly, we conclude that the cited Fleming, III disclosures meet the limitations of an "interface connector," recited in claims 16, 52, 66, 75, 81 and 85 and "communication circuitry," recited in claims 25–27, 49–51, and 61–63.

For the foregoing reasons, we conclude that Petitioner has demonstrated by a preponderance of the evidence that claims 16, 25–27, 49–52, 61–63, 66, 75, 81, and 85 are anticipated by Fleming, III.

c. Claim 36

Petitioner contends that claim 36 is anticipated by Fleming, III. Pet. 52. Claim 36 recites that the police warning receiver "tracks geographic locations in which electromagnetic signals are continuously received." Petitioner argues that the limitations of claim 36 are met by Fleming, III's disclosure that "there are many different sources of microwave signals in the frequency bands allocated to police radar by the U.S. Federal Communications Commission (FCC)," such as burglar alarms and automatic door openers. Pet. 52 (citing Ex. 1003, col.1, ll. 20–29).

Patent Owner argues that Fleming, III fails to anticipate claim 36 because it does not disclose a receiver that "tracks geographic locations" when the same signal is received continuously. PO Resp. 34. Patent Owner argues that claim 36 requires tracking a "continuously received signal." For example, the Specification of the '905 patent states that "[s]o long as an apparent police radar signal is being continuously detected, the detector will remain in signal tracking mode in order to associate that police radar signal with all of the geographic locations in which it was detected." Ex. 1001, col. 18, ll. 11–15. The portions of Fleming, III cited by Petitioner disclose that false alarms can come from a variety of sources (burglar alarms and automatic door openers), but fail to disclose a continuously received signal, much less tracking the geographic locations of continuously received signals.

For the foregoing reasons, we determine that Petitioner has not demonstrated by a preponderance of the evidence that claim 36 is anticipated by Fleming, III.

d. Claim 11–12 and 74

Petitioner contends that claims 11–12 and 74 are anticipated by Fleming, III. Pet. 50, 57. Claim 11 recites that the police warning receiver includes "storage for flags associated with geographic locations, said flags identifying rejectable signals at each geographic location." Ex. 1001, col. 26, ll. 25–27. Claim 12 is dependent from claim 11 and claim 74 provides similar recitations regarding "flags identifying rejectable signals." *Id*. at col. 26, ll. 29–32. Petitioner argues that the limitations of claim 11 are met by Fleming, III's disclosure that its device provides storage for events and their respective locations and "frequency and/or the signal strength of the incoming radar signal" and "the position of the radar detector." Pet. 49 (quoting Ex. 1003, col. 4, ll. 44–54). Fleming, III further states that "an

alert is generated if the radar detector is not within a predetermined distance of a predetermined position and the characteristic is not similar to a predetermined characteristic." Additionally, Fleming, III provides that the radar detector can store the position, frequency, and signal strength of the incoming radar signal in a "program storage device." Ex. 1003, col. 3, ll. 58–61.

As discussed above, we construe a "flag" as a code that identifies a condition. Patent Owner argues that claim 11 requires that multiple flags are stored for each geographic location and that the purpose of the flags is to identify signals to be rejected. PO Resp. 36. Patent Owner's arguments are not commensurate with the scope of claim 11. Claim 11 recites "storage for flags associated with geographic locations" and "said flags identifying rejectable signals at each geographic location." Thus, claim 11 requires a plurality of flags associated with a plurality of geographic locations. Claim 11 does not require, however, multiple flags for each geographic location, but merely that each of the plurality of flags identify rejectable signals at a respective geographic location. Accordingly, we are not persuaded by Patent Owner's argument that Fleming, III fails to disclose storing flags representing multiple signals in association with a particular location.

For the foregoing reasons, we conclude that Petitioner has demonstrated by a preponderance of the evidence that claims 11–12, and 74 are anticipated by Fleming, III.

D. Obviousness Over Fleming, III and Hoffberg

Petitioner contends that claims 1–6, 11–12, 15–18, 22–33, 36–38, 41–72, and 74–85 are obvious in view of Fleming, III and Hoffberg. Pet. 59. More particularly, Petitioner argues that it would have been obvious to combine the

intelligent radar detector of Fleming, III with the LIDAR detector of Hoffberg to reach the claimed invention, as both references are directed to suppressing or modifying warnings to incoming signals that may be confused with law enforcement signals. Pet. 59 (citing Ex. 1007 ¶¶ 100–103).

Patent Owner argues that Petitioner's obviousness challenge is insufficient because Petitioner's expert fails to describe how the resulting combined system of Fleming, III and Hoffberg would be implemented. PO Resp. 40–41. Specifically, Patent Owner argues that Fleming, III fails to disclose the correlation of a received signal to a law enforcement signal and, thus, the Fleming, III algorithms do not perform the limitations of the '905 patent claims. *Id.* As discussed above, we determine that Fleming, III does, in fact, disclose the correlation of a received signal to a law enforcement signal. Therefore, we are not persuaded by this argument against the combination of Fleming, III and Hoffberg. Furthermore, we determine that Petitioner's contention that the references are directed to similar devices for the similar purpose of suppressing or modifying warnings to incoming signals provides a sufficiently articulated reasoning with rational underpinning for combining Fleming, III and Hoffberg. *See KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)). With respect to claims 36–38, Petitioner fails to provide any arguments or rationale to support the combination of Fleming, III and Hoffberg that overcome the deficiencies noted above in the anticipation challenges for claims 36–38.

Based on the evidence presented, we determine that Petitioner has demonstrated by a preponderance of the evidence that claims 1–6, 11–12, 15–18, 22–33, 41–72, and 74–85 are unpatentable as obvious over Fleming, III and Hoffberg. Furthermore, we determine that Petitioner has not demonstrated by a

preponderance of the evidence that claim 36, and claims 37–38 dependent from claim 36, would have been obvious over Fleming, III and Hoffberg.

III. CONCLUSION

We conclude that Petitioner has demonstrated by a preponderance of the evidence that (1) claims 1–4, 11, 15–18, 22–33, 41–57, 59–72, and 74–85 are anticipated by Hoffberg, (2) claims 1, 2, 4–6, 11–12, 15–16, 18, 22, 24–29, 41–55, 57–72, and 74–85 are anticipated by Fleming, III, (3) claims 1–6, 11–12, 15–18, 22–33, 41–72, and 74–85 are obvious over Fleming, III and Hoffberg.

This is a final written decision of the Board under 35 U.S.C. § 318(a). Parties to the proceeding seeking judicial review of this decision must comply with the notice and service requirements of 37 C.F.R. § 90.2.

IV. ORDER

Accordingly, it is hereby:

ORDERED that Petitioner has shown by a preponderance of the evidence that claims 1–6, 11–12, 15–18, 22–33, 41–72, and 74–85 of U.S. Patent No. 7,999,905 are unpatentable; and

FURTHER ORDERED that Petitioner has not shown by a preponderance of the evidence that claims 36–38 of U.S. Patent No. 7,999,905 are unpatentable.

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