

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MOBILE TECH, INC.,
Petitioner,

v.

INVUE SECURITY PRODUCTS INC.,
Patent Owner.

Case IPR2016-00892
Patent 8,884,762 B2

Before JUSTIN T. ARBES, STACEY G. WHITE, and
DANIEL J. GALLIGAN, *Administrative Patent Judges*.

GALLIGAN, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
Inter Partes Review
35 U.S.C. § 318(a)

I. INTRODUCTION

In this *inter partes* review, instituted pursuant to 35 U.S.C. § 314 and 37 C.F.R. § 42.108, Mobile Tech, Inc. (“Petitioner”) challenges the patentability of claims 1–27 (“the challenged claims”) of U.S. Patent No. 8,884,762 B2 (“the ’762 patent,” Ex. 1001), owned by InVue Security Products Inc. (“Patent Owner”).

We have jurisdiction under 35 U.S.C. § 6. This Final Written Decision, issued pursuant to 35 U.S.C. § 318(a), addresses issues and arguments raised during trial. For the reasons discussed below, we determine that Petitioner has proven by a preponderance of the evidence that claims 1–27 of the ’762 patent are unpatentable. *See* 35 U.S.C. § 316(e) (“In an *inter partes* review instituted under this chapter, the petitioner shall have the burden of proving a proposition of unpatentability by a preponderance of the evidence.”).

A. Procedural History

On April 14, 2016, Petitioner requested an *inter partes* review of claims 1–27 of the ’762 patent. Paper 4 (“Pet.”). Patent Owner filed a Preliminary Response. Paper 8 (“Prelim. Resp.”). In a Decision on Institution of *Inter Partes* Review, the panel instituted trial of claims 1–27 on the following grounds of unpatentability:

1. Whether claims 1, 2, 5–9, and 11–27 are unpatentable under 35 U.S.C. § 102 as anticipated by Belden.¹
2. Whether claims 3 and 4 are unpatentable under 35 U.S.C. § 103(a) as having been obvious over Belden and Sedon;²

¹ US 2007/0159328 A1, published July 12, 2007 (Ex. 1002).

² US 2005/0073413 A1, published Apr. 7, 2005 (Ex. 1004).

3. Whether claim 10 is unpatentable under 35 U.S.C. § 103(a) as having been obvious over Belden and Rothbaum;³
4. Whether claims 1, 5–20, 22–25, and 27 are unpatentable under 35 U.S.C. § 103(a) as having been obvious over Rothbaum and Denison;⁴ and
5. Whether claims 2–4, 21, and 26 are unpatentable under 35 U.S.C. § 103(a) as having been obvious over Rothbaum, Denison, and Ott.⁵

Paper 9 (“Dec. on Inst.”), 24–25.

During the trial, Patent Owner filed a Response (Paper 18, “PO Resp.”), and Petitioner filed a Reply (Paper 22, “Pet. Reply”). In addition, Patent Owner filed a Motion to Exclude evidence. Paper 26. Petitioner filed an Opposition to Patent Owner’s Motion to Exclude (Paper 29), and Patent Owner filed a Reply in support of its Motion to Exclude (Paper 30).

An oral hearing was held on June 14, 2017, a transcript of which appears in the record. Paper 32.

B. Related Matters

The parties indicate the ’762 patent is at issue in *InVue Security Products Inc. v. Mobile Tech, Inc.*, 3:15-cv-00610 (W.D.N.C.). Pet. 1; Paper 7, 1. Petitioner also has filed petitions for *inter partes* review involving the same parties and related patents. Pet. 1; Paper 7, 1; Paper 13, 2–3; Paper 21, 1–2; IPR2016-00895, IPR2016-00896, IPR2016-00898, IPR2016-00899, IPR2016-01241, IPR2016-01915, IPR2017-00344, IPR2017-00345, IPR2017-01900, and IPR2017-01901. In addition, the

³ US 5,543,782, issued Aug. 6, 1996 (Ex. 1005).

⁴ US 2004/0201449 A1, issued Oct. 14, 2004 (Ex. 1003).

⁵ US 6,380,855 B1, issued Apr. 30, 2002 (Ex. 1006).

parties identify certain patents and pending patent applications that may be affected by a decision in this proceeding. See Paper 7, 1; Pet. 1; Paper 13, 3; Paper 21, 2.

C. The '762 Patent and Illustrative Claim

The '762 patent relates to programmable security systems for protecting merchandise. See Ex. 1001, Abstract. Figure 1 of the '762 patent is reproduced below.

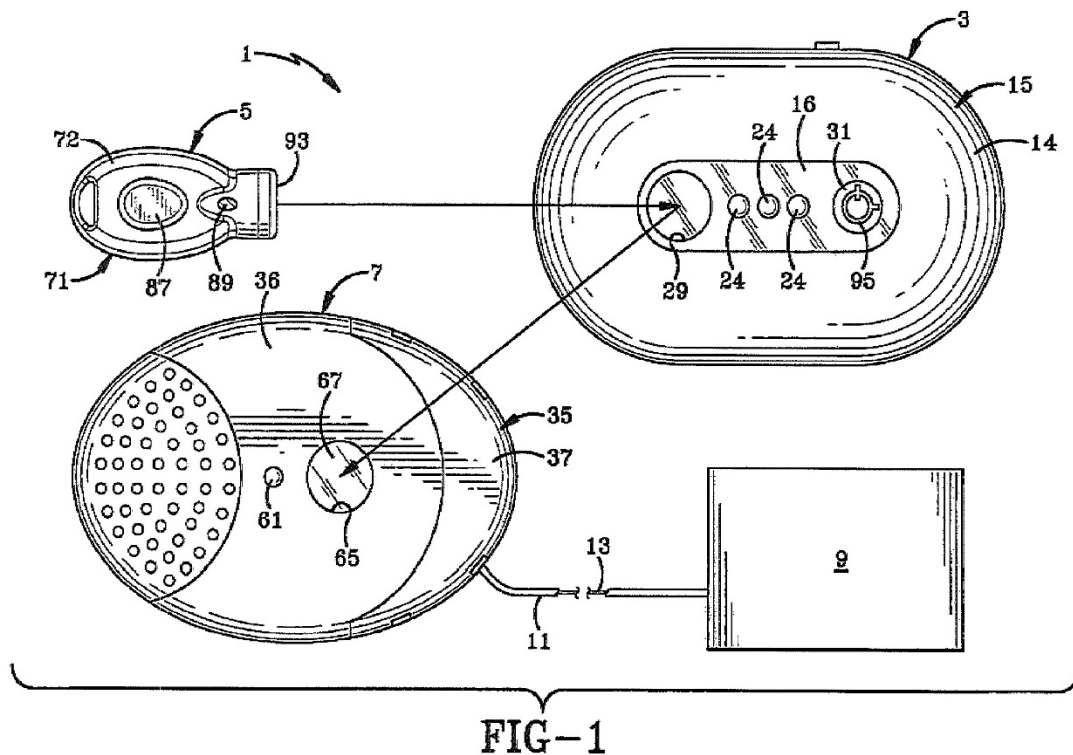


Figure 1 depicts security system 1 that includes programming station 3, programmable key 5, and alarm module 7 adapted to be attached to item of merchandise 9 by cable 11 with sense loop 13. *Id.* at 6:4–10. Programming station 3 randomly generates a unique security code (Security Disarm Code, or “SDC”) that is transmitted via wireless (e.g., infrared) link to

programmable key 5, which in turn stores the SDC in key memory. *Id.* at 6:29–31, 7:25–30, 9:7–13. Once programmed with an SDC, programmable key 5 is taken to one or more alarm modules 7 and the SDC is communicated via circuitry to the respective alarm module, which stores the SDC in its memory. *Id.* at 9:26–35.

Cable 11 extends between alarm module 7 and item of merchandise 9. Ex. 1001, 7:54–56, Fig. 1. If sense loop 13 (which contains electrical or fiber optic conductors) is compromised, such as by cutting cable 11 or by pulling the cable loose from alarm module 7 or item of merchandise 9, the alarm module emits an audible alarm. *Id.* at 7:52–64. To disarm alarm module 7, programmable key 5 programmed with a valid SDC is placed into key receiving port 65 of alarm module 7, and circuits in the alarm module and the key communicate with one another to deactivate the alarm, thereby enabling cable 11 to be removed from the merchandise item without triggering an alarm. *Id.* at 10:47–59. Programmable key 5 then may be used to re-arm the alarm module. *Id.* at 10:59–63. “[T]o disarm and re-arm alarm module 7, the SDC memory 53 of the alarm module must read the same SDC that was randomly generated by the programming station 3 and programmed into the programmable key 5 and subsequently provided by the key to the alarm module.” *Id.* at 10:66–11:4.

Claims 1 and 25 are independent claims. Claims 2–24 depend directly or indirectly from independent claim 1, and claims 26 and 27 depend from claim 25. Claim 1 is illustrative of the challenged claims and is reproduced below:

1. A programmable security system for protecting items of merchandise from theft, the programmable security system comprising:

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