

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MOBILE TECH, INC.,  
Petitioner,

v.

INVUE SECURITY PRODUCTS INC.,  
Patent Owner.

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Case IPR2016-01241  
Patent 7,737,846 B2

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

WHITE, *Administrative Patent Judge*.

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

## I. INTRODUCTION

### A. Background

Mobile Tech, Inc. (“Petitioner”) filed a Petition (Paper 1, “Pet.”) seeking to institute an *inter partes* review of claims 1–18 of U.S. Patent No. 7,737,846 B2 (Ex. 1001, “the ’846 patent”) pursuant to 35 U.S.C. §§ 311–319. Invue Security Products, Inc. (“Patent Owner”) filed a Preliminary Response. Paper 6. Based on our review of these submissions, we instituted *inter partes* review of claims 1–3, 6, and 9 of the ’846 patent based on the following grounds:

Reference(s)	Basis	Instituted Claim(s)
Denison <sup>1</sup>	§ 102	1 and 6
Denison	§ 103	1–3 and 6
Denison and Rothbaum <sup>2</sup>	§ 103	9

Paper 7 (“Dec.”), 21.

Patent Owner filed a Patent Owner’s Response (Paper 9, “PO Resp.”), and Petitioner filed a Reply (Paper 11, “Reply”). Patent Owner filed a Motion to Exclude (Paper 17) and Petitioner filed an Opposition (Paper 20). An oral hearing was held on August 8, 2017. Paper 21 (“Tr.”).

We have jurisdiction under 35 U.S.C. § 6. This Final Written Decision is issued pursuant to 35 U.S.C. § 318(a). For the reasons that follow, Petitioner has demonstrated by a preponderance of the evidence that claims 1–3, 6, and 9 of the ’846 patent are unpatentable.

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<sup>1</sup> U.S. Patent Pub. 2004/0201449, pub. Oct. 14, 2004 (“Denison,” Ex. 1002).

<sup>2</sup> U.S. Patent 5,543,782, issued Aug. 6, 1996 (“Rothbaum,” Ex. 1003).

*B. Related Proceedings*

Petitioner informs us that *Invue Security Products Inc. v. Mobile Tech, Inc.*, 3:15-cv-00610 (W.D.N.C.) may be impacted by this proceeding. Paper 8. In addition, Petitioner filed petitions for *inter partes* review involving the same parties and related patents. Pet. 1; Paper 4, 1; IPR2016-00892, IPR2016-00895, IPR2016-00896, IPR2016-00898, IPR2016-00899, IPR2016-01915, IPR2017-00344, IPR2017-00345, IPR2017-01900, IPR2017-01901, and PGR2018-00004. Also, the parties identify certain patents and pending patent applications that may be impacted by this proceeding. *See id.*

*C. The '846 Patent*

The '846 patent describes a security system and method including a smart key that is programmed with a security disarm code (“SDC”). Ex. 1001, 1:14–19. Figure 1 of the '846 patent is reproduced below.

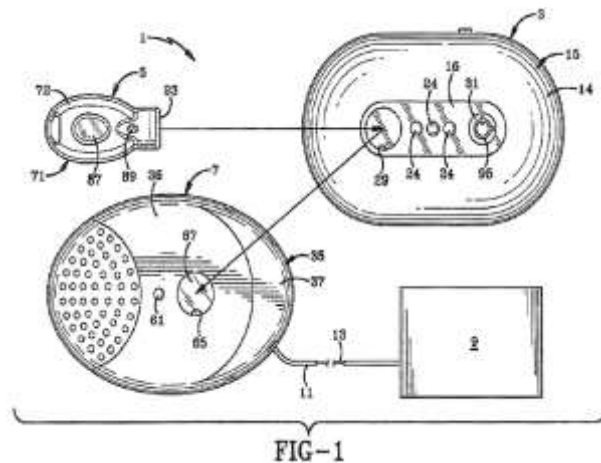


Figure 1 depicts security system 1. *Id.* at 4:65–5:1. The primary components of security system 1 are programming station 3, programmable smart key 5, and alarm module or security device 7. *Id.* at 5:1–3. Merchandise 9 is connected to alarm module 7 via cable 11 that preferably contains sense loop 13. *Id.* at 5:4–6. Programming station 3 randomly

generates a unique SDC that is transmitted to smart key 5, which in turn stores the SDC in key memory. *Id.* at 7:28–35. Once programmed with an SDC, key 5 is taken to one or more alarm modules 7 and the SDC is stored in the alarm module’s memory. *Id.* at 7:45–50. “SDC memory 53 permanently stores this SDC in the programmed alarm module preferably for the life of the alarm module.” *Id.* at 7:50–52. The storage of the SDC in the memory of key 5 will actuate timer 82 for a predetermined time period. *Id.* at 7:56–58. When the timer expires the SDC “will automatically be erased or invalidated by [the smart key’s] control logic circuit 77 rendering the key inoperative if attempted to be used with alarm module 7.” *Id.* at 7:58–62. In addition, counter 83 of key control logic circuit 77 counts each time that the key is activated. *Id.* at 8:20–22. “After a predetermined number of activations . . . counter 83 will cause logic control circuit 77 to inactive the key rendering it inoperative for further use.” *Id.* at 8:23–26.

*D. Illustrative Claim*

As noted above, we instituted *inter partes* review of claims 1–3, 6, and 9 of the ’846 patent, of which claim 1 is independent. Claim 1 is illustrative of the challenged claims and is reproduced below:

1. A security system for protecting an item of merchandise comprising:
  - a) a programmable key;
  - b) a programming station for generating a security code in the key; and
  - c) a security device for attachment to the item of merchandise, said security device being initially programmed with the security code from the key and subsequently being controlled by the key upon matching the security code of the key with the security code in the security device.

*E. Claim construction*

In an *inter partes* review, “[a] claim in an unexpired patent that will not expire before a final written decision is issued shall be given its broadest reasonable construction in light of the specification of the patent in which it appears.” 37 C.F.R. § 42.100(b); *see Cuozzo Speed Techs. LLC v. Lee*, 136 S. Ct. 2131, 2144 (2016) (upholding the use of the broadest reasonable interpretation standard). Under this standard, we construe claim terms using “the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in the applicant’s specification.” *In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997). We presume that claim terms have their ordinary and customary meaning. *See Trivascular, Inc. v. Samuels*, 812 F.3d 1056, 1062 (Fed. Cir. 2016). This presumption, however, may be rebutted if the specification defines the claim term with “reasonable clarity, deliberateness, and precision.” *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994).

With respect to the claims challenged in this *inter partes* review, the Decision on Institution discussed the broadest reasonable interpretation of the term “programmable key.” Dec. 6 (“we are not persuaded the broadest reasonable interpretation of ‘programmable key’ is limited to a programmable key that ‘deactivates itself upon the occurrence of a specific event,’ as argued by Petitioner”). During trial, the parties did not further address our initial determination regarding the broadest reasonable interpretation of this term. *See* PO Resp. 4; *see generally* Reply. Based on our review of the record, we do not see any reason or evidence that compels

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