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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/949,297	11/23/2015	Tuan Anh BE	83588693	1084
28395	7590	09/23/2020	EXAMINER	
BROOKS KUSHMAN P.C./FGTL 1000 TOWN CENTER 22ND FLOOR SOUTHFIELD, MI 48075-1238			FINDLEY, CHRISTOPHER G	
			ART UNIT	PAPER NUMBER
			2482	
			NOTIFICATION DATE	DELIVERY MODE
			09/23/2020	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* TUAN ANH BE, NOORULLA MOHAMMED,  
NICHOLAS COLELLA, and ALLEN R. MURRAY

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Appeal 2019-003031  
Application 14/949,297  
Technology Center 2400

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Before JOSEPH L. DIXON, MAHSHID D. SAADAT, and  
DONNA M. PRAISS, *Administrative Patent Judges*.

PRAISS, *Administrative Patent Judge*.

DECISION ON APPEAL  
STATEMENT OF THE CASE

Appellant<sup>1</sup> appeals under 35 U.S.C. § 134(a) from a final rejection of claims 1–20. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

The claims are directed to a system for vehicular environment alerts. According to the Specification, a processor is configured to issue an alert to a user mobile device upon determining that image data captured in response to a vehicle-related state condition associated with the alert correlates to

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<sup>1</sup> We use the word “Appellant” to refer to “applicant(s)” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as Ford Global Technologies, Inc. Appeal Br. 2.

stored image data designated to represent an alert condition. Spec. ¶ 3. The Specification discloses inputs to the processor that allow the user to interface with the processor, such as by taking a picture of a closed garage door that the vehicle read camera could compare to the saved picture to determine if the garage door is closed behind the vehicle, and outputs to the system that can include a visual display or speaker output. *Id.* ¶¶ 13, 14, 28. The Specification also discloses interior and exterior sensors or cameras to detect movement inside and outside the vehicle and tie them to a “user leaves proximity” state to determine, for example, whether a child has been left inside the vehicle. *Id.* ¶¶ 37, 38.

Independent claims 1 and 20, reproduced below, are illustrative (disputed limitations are italicized).

1. A system comprising:  
a processor configured to:  
issue an alert *to a user mobile device* upon a determination that image data, captured *in response to a vehicle-related state condition* associated with the alert, correlates to stored image data designated to represent an alert condition.
20. A system comprising:  
a processor configured to:  
display one or more vehicle camera images viewed by one or more vehicle cameras, on a vehicle display in response to a configuration request;  
capture one or more images upon user selection; and  
*store the images and corresponding user selected vehicle state data designating when the captured images should be used for an alert comparison.*

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Appeal Br. Appendix 1, 3 (Claims Appendix). Independent claim 12 is similar to claim 1 reciting “sensor data parameters” in place of “image data.”

## REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Name	Reference	Date
Lowenthal	US 2011/0148662 A1	June 23, 2011
Donishi	US 2014/0085473 A1	Mar. 27, 2014
Shin	US 2015/0002620 A1	Jan. 1, 2015
Yu	US 2016/0046324 A1	Feb. 18, 2016

## REJECTIONS

The Examiner maintains the following rejections:

Claim(s)	35 U.S.C. §	Reference(s)
1, 6, 8–10, 12, 14, 16–18, 20	102(a)(1)	Shin
2–5, 7, 13, 19	103	Shin, Lowenthal
11	103	Shin, Donishi
15	103	Shin, Yu

## ANALYSIS

### *Anticipation Rejection*

Appellant separately argues independent claims 1 and 20 and groups independent claim 12 with claim 1. Appeal Br. 5–6. We address claims 1 and 20 below.

### *Claim 1*

Appellant contends the Examiner erred in finding Shin anticipates claim 1 because Shin’s alerts are issued in vehicle rather than via a mobile device as claim 1 requires. Appeal Br. 5 (citing Shin ¶ 165). In the Reply Brief, Appellant acknowledges that Shin’s paragraph 128 discloses Shin’s image display device can be variably applicable to smart phones, but asserts

the Examiner failed to demonstrate how using a smart phone would capture image data in response to a vehicle-related state condition associated with the alert. Reply Br. 2. According to Appellant, the Examiner’s reliance on Shin’s paragraph 140 shows a vehicle-mounted camera, which would not be applicable to a mobile device embodiment because a mobile device does not include cameras fixedly mounted to bumpers. *Id.* (citing Shin ¶¶ 139–40).

Appellant also contends Shin’s system fails to capture images in response to a vehicle-related state condition, and instead, captures images in response to a user pressing a user capture button, which is neither a “vehicle-related state condition” nor a “state condition associated with an alert.” *Id.* (citing Shin ¶ 159). According to Appellant, claim 1 requires a previously saved “alert” image and a vehicle-related state condition associated with the alert whereas Shin’s image analysis process captures an image in response to a user changing gears, not in response to a vehicle-related state condition associated with the alert. *Id.* at 5. Appellant further argues that Shin’s distance determination designates the alert condition rather than Shin’s previously captured obstacle image. *Id.* Appellant contrasts Shin with Appellant’s invention wherein the alert conditions are represented by the images themselves, such as an open garage door. *Id.* at 6.

Appellant’s arguments do not persuade us of error in the Examiner’s rejection for the reasons provided by the Examiner in the Final Office Action and the Answer. We add the following for emphasis.

Each of independent claims 1 and 12 requires issuing an alert “in response to a vehicle-related state condition associated with the alert.” Appeal Br. Appendix 1, 2 (Claims Appendix). This claim limitation encompasses Shin’s vehicle gear state, that is, the vehicle shifting into a

forward gear or a reverse gear, causing an alert. As the Examiner points out, Shin's controller

determines whether or not a reverse gear or a forward gear of the vehicle has been selected on the basis of the vehicle gear shifting information, and operates the rear camera . . . of the vehicle to capture a rear image when the reverse gear has been selected or automatically operate the front camera . . . to capture a front image when the forward gear of the vehicle has been selected.

Ans. 10 (citing Shin ¶ 140). Appellant's assertion that Shin's distance determination designates the alert condition rather than Shin's previously captured obstacle image is not persuasive because Appellant does not direct us to any limitation in claim 1 that precludes Shin's distance determination step. This difference between Appellant's claimed invention and Shin's disclosure does not distinguish Shin's system from the claimed system because the transitional term "comprising" in claim 1 encompasses Shin's additional step. Limitations not appearing in the claims cannot be relied upon for patentability. *In re Self*, 671 F.2d 1344, 1348 (CCPA 1982).

Appellant's argument (Reply Br. 2) that the Examiner failed to demonstrate how a smart phone would achieve the limitation that the image data captured with a smart phone would be in response to a vehicle-related state condition associated with the alert is not persuasive of error because Appellant does not direct us to any requirement in claim 1 that a mobile device must capture the recited "image data." Moreover, as Appellant notes, Shin's paragraph 128 explains that the image display device "can be variably applicable to smart phones," a "navigation device," or "the like." Shin ¶ 128. Shin's Figure 10 discloses that an obstacle image is captured in step S22 and output warning information is issued in step S26. Shin Fig. 10, ¶¶ 158–165. Claim 1 does not require the image data be captured a smart phone or even

to the same smart phone or “user mobile device” to which the alert is issued. Therefore, Appellant’s argument differentiating the claims over the cited prior art on the basis of “issue an alert to a user mobile device upon a determination that image data, captured in response to a vehicle-related state condition associated with the alert” is not persuasive of error.

*Claim 20*

In the Appeal Brief, Appellant contends the Examiner erred in finding that Shin discloses storing “image” or “user selected vehicle state data” as required by claim 20. Appeal Br. 6. Appellant asserts that Shin’s data referenced in paragraph 75 is comparison data that is not taught to be data captured by a user. *Id.* Appellant’s argument is not persuasive of error because the Examiner’s finding that Shin teaches the pre-set distance value may be changed by the user is supported by the record. Ans. 10; Shin ¶ 134.

In the Reply Brief, Appellant asserts the Examiner’s citation to Shin’s paragraph 174 does not support the anticipation rejection of claim 20. Reply Br. 2–3. This argument was not presented in the Appeal Brief, and Appellants have not proffered a showing of good cause explaining why the argument could not have been presented in the Appeal Brief. The Examiner cited Shin’s paragraph 174 in the Final Office Action. Final Act. 5. This citation in connection with the rejection of claim 20 does not appear in either Appellant’s Appeal Brief or the Examiner’s Answer. Therefore, we will not consider this new and untimely argument in our assessment of the Examiner’s § 102(a)(1) rejection. 37 C.F.R. §§ 41.37, 41.41; *see Ex parte Borden*, 93 USPQ2d 1473, 1477 (BPAI 2010) (informative).

Thus, Appellant has not shown error in the Examiner’s rejection of independent claims 1, 12, and 20 and in the Examiner’s finding of anticipation based upon Shin’s disclosure.

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For the above reasons and those provided in the Final Office Action and the Answer, we sustain the Examiner's § 102(a)(1) rejection of independent claims 1, 12, and 20. We also sustain the Examiner's § 102(a)(1) rejection of dependent claims 6, 8–10, 12, 14, 16–18, argued for their dependency from claim 1 or 12. Appeal Br. 6.

#### *Obviousness Rejections*

Appellant asserts that none of the secondary references relied upon by the Examiner for the obviousness rejections cure the alleged deficiencies of Shin with respect to claims 1 and 12. Appeal Br. 7. Because we do not find error in the Examiner's rejection of claims 1 and 12 over Shin for the reasons discussed above, we likewise do not find error in the Examiner's rejection of claims 2–5, 7, 11, 13, 15, and 19 under 35 U.S.C. § 103.

#### CONCLUSION

The Examiner did not err in rejecting claims 1–20.

DECISION

For the above reasons, we AFFIRM the Examiner's rejection of claims 1–20.

In summary:

<b>Claim(s) Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)</b>	<b>Affirmed</b>	<b>Reversed</b>
1, 6, 8–10, 12, 14, 16–18, 20	102(a)(1)	Shin	1, 6, 8–10, 12, 14, 16–18, 20	
2–5, 7, 13, 19	103	Shin, Lowenthal	2–5, 7, 13, 19	
11	103	Shin, Donishi	11	
15	103	Shin, Yu	15	
<b>Overall Outcome</b>			1–20	

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED