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15/481,756	04/07/2017	David Karl Bidner	83774886(65080-2324)	9783
113140	7590	06/10/2020	EXAMINER	
Bejin Bieneman PLC Ford Global Technologies, LLC 2000 Town Center Suite 800 Southfield, MI 48075			MUSTAFA, IMRAN K	
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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* DAVID KARL BIDNER and TIMOTHY JOSEPH CLARK

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Appeal 2020-000158  
Application 15/481,756  
Technology Center 3600

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Before ANTON W. FETTING, BIBHU R. MOHANTY, and  
KENNETH G. SCHOPFER, *Administrative Patent Judges*.

SCHOPFER, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant<sup>1</sup> appeals from the Examiner's decision to reject claims 1–20. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

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<sup>1</sup> We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as Ford Global Technologies, LLC. Appeal Br. 3.

## BACKGROUND

The Specification discloses methods and systems for transmitting messages through sequences of light pulses from computing devices equipped in vehicles in order to convey information about vehicles and surroundings. *See* Spec. ¶¶ 12–14.

## CLAIMS

Claims 1 and 11 are the independent claims on appeal. Claim 1 is illustrative of the appealed claims and recites:

1. A method, comprising:  
transmitting a sequence of light pulses having a first speed;  
receiving a second sequence of light pulses from a vehicle;  
and  
transmitting a message as a sequence of light pulses having a second speed based on the second sequence of light pulses received from the vehicle, wherein the first speed is different from the second speed.

Appeal Br. 12.

## REJECTION<sup>2</sup>

The Examiner rejects claims 1–20 under 35 U.S.C. § 103(a) as unpatentable over Kim<sup>3</sup> in view of Zhang.<sup>4</sup>

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<sup>2</sup> The Examiner has withdrawn the rejections under 35 U.S.C. § 101. *See* Ans. 3.

<sup>3</sup> Kim et al., US 2003/0231105 A1, pub. Dec. 18, 2003 (“Kim”).

<sup>4</sup> Zhang et al., US 2015/0327028 A1, pub. Nov. 12, 2015 (“Zhang”).

## DISCUSSION

With respect to claim 1, for example, the Examiner finds that Kim discloses a method including the steps of transmitting a sequence of light pulses having a first speed and receiving a second sequence of light pulses from a vehicle. Final Act. 7–8 (citing Kim ¶¶ 131, 132). The Examiner acknowledges that Kim does not teach the second transmitting step required by claim 1. *Id.* at 8. With respect to this step, the Examiner relies on Zhang and finds:

Zhang teaches of a system that transmits a message as a sequence of light pulses having a second speed based on the second sequence of light pulses received from the vehicle and selected at least in part to be different from the first speed (Paragraph 15 “determine a desired communication transmission rate for transmitting V2V safety messages from a vehicle. The transmission rate is determined in accordance with a practical need by the transmitting vehicle as well as a need by the nearby vehicles for data contained in the messages based on vehicle and inter-vehicle conditions”, Paragraph 17 “dynamically adjust the selected desired transmission rate of V2V messages from a vehicle based on one or more vehicle and/or inter-vehicle conditions. In the example embodiment, the selected transmission rate is dynamically adjusted to an adjusted effected minimum transmission rate between a frequency high enough so that the vehicle will not likely collide with any other nearby vehicle during the time periods between two consecutive V2V safety messages, and a transmission frequency as low as possible above the minimum frequency to help minimize unnecessary radio channel load and congestion between the vehicles”).

*Id.* (emphasis omitted). The Examiner further explains that Zhang is relied upon as teaching selecting the second speed of the second sequence based in part to be different from the first speed because

As one of ordinary skill in the art would understand dynamically adjusting a speed of transmission would mean that there would

be more than one speed of transmitting the data. Since the speed is dynamically adjusted this would mean that there is a second transmission speed which is distinct from the first speed. Thus Zhang teaches of the second speed being different from the first speed.

*Id.* at 12–13. The Examiner also finds that because “the speed is dynamically adjusted this would mean that there is a second transmission speed which is distinct from the first. This is what differs a static speed form [sic] a dynamic speed in that the dynamic sped [sic] changes.” Ans. 4. The Examiner also notes that Zhang teaches that the transmission rate is based on “vehicle speed, relative vehicle velocities, distances among vehicle and on how quickly there [sic] distances are spreading or closing up.” *Id.* at 5.

We agree with Appellant that the Examiner’s findings do not explain adequately how the art of record discloses a second speed that is “selected at least in part to be different from the first speed.” *See* Appeal Br. 9–10. Specifically, we agree that although Zhang may teach that speed is adjusted dynamically such that the second speed *may* be different from the first, the Examiner does not establish that art teaches that the second *is* different from the first because it is specifically selected to be different from the first speed, as the claim requires. The claim specifically requires that the second speed is “selected at least in part to be different from the first speed.” We agree with Appellant that this language requires the first and second speeds to be different because the second speed is selected to be different from the first, even though the second speed may also be selected based on other factors. The Examiner does not otherwise explain how the art of record teaches this limitation or rely on any evidence or reasoning establishing that it would

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have been obvious to modify the art to select a second speed in the manner claimed.

Based on the foregoing, we do not sustain the rejection of independent claim 1 or independent claim 11, which includes a similar requirement. For the same reasons, we do not sustain the rejection of dependent claims 2–10 and 12–20.

### CONCLUSION

We REVERSE the rejection of claims 1–20.

In summary:

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1–20	103	Kim, Zhang		1–20

REVERSED