

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICHAEL J. SINDONI, JR., owner and Assignee of  
US Patent Appl'n No. 14/834,548,

PETITIONER

V.

FCA US LLC, owner and Assignee of  
US Patent Appl'n No. 14/209,123  
Patent No. 9,067,525 – Issued June 30, 2015

RESPONDENT

Case No.: \_\_\_\_\_

**VIA PRPS**

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Patent Trial and Appeal Board  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION TO INSTITUTE A DERIVATION PROCEEDING AGAINST US PATENT  
APPLICATION NO. 14/209,123**

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## I. Introduction

Petitioner Michael J. Sindoni, Jr., (“Sindoni” or “Petitioner”) hereby petitions and respectfully requests that the Patent Trial and Appeal Board institute a derivation proceeding against US Patent Application No. 14/209,123 to Deyan Ninov et al., filed March 13, 2014 and titled “Adjustable loading ramp system for a vehicle” (“the ‘123 application”, submitted herewith as Sindoni Exhibit 1001; authenticated in Declaration of Michael J. Sindoni, Jr., “Sindoni Dec.” Sindoni Exhibit 1003, ¶ 2) owned by its Assignee, FCA US LLC of Auburn Hills, Michigan (hereinafter “Respondent”).

As will be demonstrated below, this invention, which in brief is a ramp system for a pickup truck, was communicated to Respondent by Sindoni before Respondent filed the ‘123 application. Petitioner has filed his own patent application, no. 14/834,548, on August 25, 2015, claiming priority to Provisional Application No. 62/043,799, filed on August 29, 2014 (“the ‘548 application”, Sindoni Exhibit 1002; authenticated in Sindoni Dec., Sindoni Exhibit 1003, ¶ 3). Sindoni **never** authorized FCA US LLC to file the ‘123 application or any other application on Sindoni’s invention. At the very least, Claims 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 of the ‘123 application were directly derived from the teachings provided to Respondent by Petitioner, and the remaining claims of the ‘123 application were readily obtainable therefrom.

Additionally, Petitioner submits that the patent application filed by Respondent is legally deficient. Two inventors are listed on the Application Data Sheet and Filing Receipt & Assignment as Joseph S Dehnar & Gregory A Howell. The signed Declaration has names listed as Joseph S. Dehnar & Gregory A. Howell. The Declaration should match the Application Data Sheet exactly pursuant to 37 CFR §1.76. Also it appears that Howell did not sign with his middle initial. The Information Disclosure Statement filed and signed off on by the Examiner does not have an application number listed. 37 CFR §1.98 states that the application number must be listed. The Examiner should have required that Respondent correct this, rather than signing off on it. The only time an applicant may omit the application number is when the Information Disclosure Statement is submitted concurrently with the initial application documents, when there is no application number.

Pursuant to 37 CFR § 42.22(a)(1), Petitioner respectfully requests that the Board correct the inventorship of the ‘123 application to **include** Michael J. Sindoni, Jr. (listed on Sindoni’s

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‘548 application) and/or to **delete** the inventors currently listed in the ‘123 application by Respondent. Petitioner further respectfully requests that the Assignment of the ‘123 application to FCA US LLC be voided. Petitioner also requests any additional relief the Board deems appropriate.

**II. Mandatory Notices under 37 CFR § 42.8**

Pursuant to 37 CFR § 42.8, Petitioner is filing, as part of the instant petition, the following notices.

**(1) Real Party-in-Interest**

The real party-in-interest for Petitioner is Michael J. Sindoni, Jr., having an address at 2078 Hardin Street, Delanson, NY, 12053.

The real party-in-interest for Respondent is believed to be FCA US LLC, having an address at 800 Chrysler Drive East, Auburn Hills, MI, 48326-2757. (FCA US LLC is the Assignee of the ‘123 application)

**(2) Related Matters**

None.

**(3) Lead Counsel**

Lead Counsel: Robert W. Gray, The Gray Law Group Ltd.,  
1431 Opus Place, Suite 110, Downers Grove, IL, 60515

**(4) Service Information**

Service of the instant petition is being made via Express Mail and e-mail on the following:

(a) The address and attorney of record for the ‘123 application:

Attorney Ralph E. Smith  
800 Chrysler Dr.  
CIMS 483-02-19  
Auburn Hills, MI 48326  
Phone: (248) 944-6519  
Fax: (248) 944-6537

**III. Standing under 37 CFR§ 42.402**

Petitioner Sindoni is an applicant for patent, namely, US Patent Application No. 14/834,548, entitled “Retractable bed ramps with platform for a pickup truck” filed August 25, 2015 (“the ‘548 application”, Sindoni Exhibit 1002). As such, Petitioner has standing to file the instant petition. Power of Attorney was granted to the undersigned lead counsel upon the filing of the ‘548 application as reflected in Sindoni Exhibit 1004 (authenticated by Sindoni Dec., Sindoni Ex. 1003, at ¶ 6).

**IV. Timeliness of the Instant Petition under 37 CFR § 42.403**

The “Leahy-Smith America Invents Technical Corrections” was signed into law on January 14, 2013 (Public Law 112-274, at 126 STAT 2456, submitted herewith as Sindoni Exhibit 1005; see Sindoni Dec., Sindoni Ex 1003, at ¶ 4) to correct certain technical defects in the America Invents Act. Section 1, ¶ (k) amends 35 USC § 135(a) and establishes the times for the filing of a petition for a derivation proceeding, as follows:

(2) TIME FOR FILING.—A petition under this section with respect to an invention that is the same or substantially the same invention as a claim contained in a patent issued on an earlier application, or contained in an earlier application when published or deemed published under section 122(b), may not be filed unless such petition is filed during the 1-year period following the date on which the patent containing such claim was granted or the earlier application containing such claim was published, whichever is earlier.

(Sindoni Exhibit 1005, pages 3-4.) The ‘123 application was not published before issuance of the patent, and the patent was issued on June 30, 2015. Since the instant petition is being filed during the one-year period following June 30, 2015, the instant petition is timely.

**V. Derivation Fee under 37 CFR § 42.404**

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