

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Inter Partes Review of:

Case No.: IPR2013-00014

U.S. Patent No. 6,998,973

Filed: February 5, 2004

Issued: February 14, 2006

Attorney Docket No.: 73139/0000005

Inventor(s): Lefaure, Philippe

Assignee: Continental Automotive Systems US, Inc.

Title: DATA TRANSMISSION METHOD Panel: Administrative Patent Judges
FOR A TIRE PRESSURE MONITORING Medley, Cocks and Kim
SYSTEM OF A VEHICLE

Mail Stop Patent Board
Patent Trial and Appeal Board
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR REHEARING UNDER 37 CFR §42.71(c) and (d)

The Petitioners, Schrader-Bridgeport International, Inc. and Schrader Electronics, Inc. (collectively, "Schrader"), respectfully request the Patent Trial & Appeal Board ("the Board") to reconsider the denial of one of the grounds of rejection set forth in its Decision dated March 13, 2013 (Paper 12) to institute the above-captioned *inter partes* review.

As discussed below, the Board granted review for one ground of rejection based on obviousness (the Derbyshire, Bailie and Bowers combination), denied two anticipation grounds and one ground based on obvious based on its claim

interpretation, and denied the remaining five grounds as redundant over the Derbyshire, Bailie, and Bowers combination. Schrader is asking for just one of those grounds, namely the obvious grounds over Bailie and Bowers (without Derbyshire) (Ground 8 below) to be included in the proceeding to avoid the procedural prejudice discussed below.

This Request is timely filed within fourteen days of the Decision. 37 CFR §42.71(d). No prior authorization is required to request rehearing. 37 CFR §42.71(c).

Statement of Facts

1. Schrader filed its Petition for *Inter Partes* Review on October 8, 2012. That Petition included nine proposed grounds of rejection based on four patents Derbyshire (US6271748), Estakhri (US6404246), Bailie (US6486773) and Bowers (5883582):

Ground 1: Claims 1-2, 4-5, 7, 9 and 11 are anticipated by Derbyshire.

Ground 2: Claims 3, 7, 8, 10 and 11 are obvious over Derbyshire.

Ground 3: Claims 1-5 and 7-11 are obvious over Derbyshire in view of Estakhri.

Ground 4: Claims 1-5 and 7-11 are obvious over Derbyshire in view of Bowers.

Ground 5: Claims 1-5 and 7-11 are obvious over Derbyshire in view of Bailie.

Ground 6: Claims 1, 4-5, 7 and 9-11 are anticipated by Bailie.

Ground 7: Claims 1-5 and 7-11 are obvious over Bailie in view of Estakhri.

Ground 8: Claims 1-5 and 7-11 are obvious over Bailie in view of Bowers.

Ground 9: Claims 1-5 and 7-11 are obvious over Derbyshire, Bailie and Bowers.

See Paper 1, passim.

2. Bailie and Derbyshire both teach the basic components of a tire pressure monitoring system with the claimed “running mode” and “parking mode” “data transmission phases,” as well as the preamble of claim 1. The charts in Appendices A-1, A-2 and B-1 detailed how Derbyshire applies to the basic elements of claims 1-5 and 9-11, and how Bailie applies to the basic elements of claims 1, 4-5, 7 and 9-11. Paper 1 at 15-16 and 20. Bowers was relied upon in proposed grounds 4, 8 and 9 for the teachings of a highly imprecise oscillator that satisfies the last paragraph of claim 1, as well the features in dependent claims 2-3 and 8. *Id.* at 17 and 22-24, and Appendices A-4 and B-3. Hence, for obviousness purposes, Schrader proposed in ground 4 that Derbyshire and Bowers could be combined, and in ground 8 that Bailie and Bowers could be combined.

3. Bailie expressly discloses the need for an anti-collision feature, and this was acknowledged by the Board. Paper 13 at 16. That teaching was relied upon in its analysis adopting the Derbyshire, Bailie, Bowers combination of proposed ground 9. Bailie also teaches the benefits of using imprecise components

in the tire pressure sensors to help avoid transmission collisions, namely the roll switches that trigger the start of the “driving mode” when the vehicle is rolling and the “parking mode” when the vehicle is stopped. Paper 1 at 19-23 (citing Bailie).

4. The Board instituted this *inter partes* review in the Decision dated March 13, 2013 solely on proposed grounds 9, i.e., the Derbyshire, Bailie, and Bowers combination. Paper 12 at 14-19. The Board denied *inter partes* review on grounds 1, 2, and 6 based on its interpretation of the ‘973 patent claims as compared to the cited prior art. *Id.* at 10-14. However, the Board also denied grounds 3, 4, 5, 7 and 8 on the basis of redundancy, and particularly because Estahkri was allegedly duplicative of Bowers, and because the Derbyshire/Bowers and Bailie/Bowers combinations were allegedly redundant of the Derbyshire/Bailie/Bowers combination. *Id.* at 19-20.

5. Prior to the Decision, the Patent Owner, Continental Automotive Systems, Inc. (“Continental”) filed its Preliminary Response of Patent Owner on January 10, 2013. Paper 11.

6. Continental’s Preliminary Response addressed each and every grounds of rejection proposed by Schrader. Paper 11, *passim*. Continental disputed proposed ground 9, the Derbyshire, Bailie, and Bowers combination, for an alleged lack of clarity and duplicativeness of other grounds of rejection. *Id.* at 55-56. However, Continental also argued with respect to other grounds of

rejection that Derbyshire should not be combined with either Bowers or Bailie, for the alleged reason that Derbyshire teaches away or lacks a sufficient reason to combine. *Id.* at 37-42.

7. The Board disagreed with Continental's arguments against proposed grounds 9 for lack of clarity and duplicativeness. Paper 13 at 16-17. Although Continental's arguments with respect to combining Derbyshire with Bailie or Bowers were directed to other grounds of rejection, the Board also considered those arguments with respect to proposed ground 9, finding them "unavailing." *Id.* at 18. Hence, proposed ground 9 was included in this proceeding.

Argument

Schrader recognizes that grounds 4, 8 and 9 are quite similar, as Derbyshire and Bailie both teach the basic elements of a tire pressure monitoring system and a data transmission method, while Bowers is relied upon for the highly imprecise clock that gives rise to the "natural time lag" feature in the last paragraph of claim 1, as well as the features of dependent claims 2, 3 and 8. Likewise, Schrader is also understanding of the burden that deciding multiple grounds of rejection based on many different references may place on the Board's and the parties' resources, and that normally the Board should have substantial latitude in with respect to

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