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RECORD OF ORAL HEARING
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LKQ CORPORATION
Petitioner

V.

CLEARLAMP, LLC
Patent Owner

Case IPR2013-00020
Patent 7,297,364

Oral Hearing Held January 2, 2014

Before SALLY MEDLEY, KEVIN F. TURNER (VIA VIDEO HOOKUP)
AND JOSIAH C. COCKS, Administrative Patent Judges

APPEARANCES:

ON BEHALF OF THE PETITIONER:

JASON A. ENGEL
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ON BEHALF OF THE PATENT OWNER:

MATTHEW L. CUTLER and
BRYAN K. WHEELLOCK
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PROCEEDINGS

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JUDGE MEDLEY: Good afternoon. This is the hearing for IPR2013-00020 between Petitioner LKQ Corporation and Patent Owner Clearlamp, LLC.

At this time, we would like the parties to please introduce themselves and who you have with you beginning with the Petitioner.

MR. ENGEL: Thank you, Your Honors, Jason Engel on behalf of the Petitioner. With me is lead counsel, Allen Barry and backup counsel, Benjamin Weed and Viren Soni.

JUDGE MEDLEY: Will you be arguing?

MR. ENGEL: I will be arguing, Your Honor.

JUDGE MEDLEY: Thank you. And for the Patent Owner?

MR. CUTLER: Good afternoon, Your Honors, Matthew Cutler on behalf of Patent Owner Clearlamp, LLC. And with me is backup counsel, Bryan Wheelock and Doug Robinson. And also with me is the CEO of Clearlamp, Mr. Michael Celtor.

I'll be doing the argument with regard to the Petition, and my backup counsel, Mr. Wheelock, will be arguing regarding the motion to amend.

JUDGE MEDLEY: Great. Thank you very much. Per the December 12th hearing order, each party will have 60 minutes of total time to present arguments.

Petitioner, you will begin with the presentation of your case that the Patent Owner's claims at issue in this review are unpatentable. And then the Patent Owner may respond to Petitioner's presentation and at that time, present its own case with respect to its motion to amend claim.

1 Petitioner may reserve rebuttal time to respond to Patent
2 Owner's presentation in all matters, and then Patent Owner also may reserve
3 rebuttal time, but may only address issues with respect to its motion to amend
4 the claims.

5 The Board received the parties' demonstratives. In accordance
6 with the conference call that was held on December 30, Patent Owner filed its
7 demonstrative Exhibits Nos. 2031 and 2032 as substitutes for demonstrative
8 Exhibits Nos. 2028 and 2029.

9 As such, it is ordered that demonstrative Exhibits Nos. 2028
10 and 29 will be expunged from the record in due course. Is there an objection
11 to that order?

12 MR. CUTLER: No, Your Honor.

13 MR. ENGEL: No, Your Honor.

14 JUDGE MEDLEY: Thank you. Counsel for the Petitioner,
15 you may proceed. And would you like to reserve rebuttal time?

16 MR. ENGEL: I would like to.

17 JUDGE MEDLEY: All right.

18 MR. ENGEL: A half hour?

19 JUDGE MEDLEY: Okay. Thank you. You may begin.

20 MR. ENGEL: Do you need paper copies of the demonstratives
21 or do you have copies?

22 JUDGE MEDLEY: I do. Thank you.

23 MR. ENGEL: You're welcome. Shall I begin?

24 JUDGE MEDLEY: Yes, please.

25 MR. ENGEL: Thank you for the time today, Your Honors.

26 We're here today to talk about the '364 Patent and why -- the reasons why the
27 Petitioner believes it is unpatentable and of record.

1 It is important to think about the '364 Patent in the context of
2 what it teaches. It is a method of refurbishing a headlamp.

3 It's pretty straightforward, we believe, and it's important to look
4 at the art in that same record, because the Kuta reference, the primary
5 reference the Petitioner uses, is also a method of refurbishing a headlamp.
6 And it's important to keep that in mind as you go through because this isn't
7 disparate art. This is very close art recognized by such as the Patent Owner.

8 So if we could go to Slide 2, please? Again, introducing the
9 primary reference, the Kuta reference, Exhibit 1002.

10 Kuta is a method that's a step-by-step process for removing
11 damage from a headlamp to restore it to like-new condition without the
12 relatively high cost of replacement. And we will hear some argument today
13 about original equipment position or OEM condition, and we believe like new
14 is trying to approximate that. Just to the extent that limitation is part of the
15 claims, which we don't believe it is, but if it is, Kuta's trying to address the
16 same problem.

17 Go to Slide 2.

18 Now, we will hear an argument today that it's about different
19 markets, an OEM market and a consumer market. I don't know if that's a
20 non-analogous art argument, but they're not non-analogous art and I don't
21 think they address different markets. If you look, the Patent Owner in the
22 specifications specifically listed the Kuta reference as related art. They
23 recognized this is the closest art that they knew about at the time they filed.

24 When they were talking about the Kuta reference, if we turn to
25 Slide 4, the thing that they noted were some of the problems in Kuta. And
26 those problems stemmed in the Patent Owner's mind from the headlamp still
27 being in the vehicle and working on the headlamp while it was in the vehicle.

1 And so they said this method is undesirable because it uses it while the
2 headlamp is still mounted in the motor vehicle.

3 Now that's important to keep in mind as we go through this
4 because we're not arguing that the Kuta reference by itself discloses the
5 method. We're arguing that once you take the headlamp outside of the
6 vehicle, the Kuta process is the same process as the '364 Patent. So we'll hear
7 a lot about the limited access corners in Kuta. We don't have to worry about
8 that. The prior art we have talks about taking the headlamp out of the vehicle.
9 And as the Board recognized in its decision, Kuta also teaches that as an
10 alternative.

11 Now, obviously, the Kuta publication is directed to doing it in
12 the car, but recognized you could take it out for refurbishment.

13 Now, if we go to Slide 5, I think it's also important to note that
14 the examiner in the underlying prosecution recognized that Kuta was the
15 closest prior art. It took the Patent Owner's admission that it was related art
16 and found that to be the closest prior art.

17 Now the examiner, if we can go to Slide 6, did find that Kuta
18 teaches away from the step of removing it from the vehicle and, as such,
19 allowed it for that reason. Now, it's important to note that Kuta doesn't teach
20 away -- Kuta does not say that if take this lens out of the motor vehicle, my
21 method will not work. To teach away, you have to make that statement.
22 That's not made anywhere in the Kuta reference.

23 Now, if we could go to Slide 8 really quickly?

24 Slide 8 talks about the reasons for allows. It says it is the same
25 as previously set forth under the Office action, which was that Kuta does not
26 teach removing the lens from the headlamp or teaches away.

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