

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TOYOTA MOTOR NORTH AMERICA, INC., ET AL.
Petitioner

v.

CRUISE CONTROL TECHNOLOGIES LLC
Patent Owner

Case IPR2014-00280
Patent 6,324,463

TOYOTA ET AL.'S OPPOSITION TO CCT'S MOTION FOR JOINDER

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I. INTRODUCTION

Petitioner Toyota Motor North America, Inc. (“Toyota”) and co-Petitioners Subaru of America, Inc. (“Subaru”), American Honda Motor Co., Inc. (“Honda”), Ford Motor Company (“Ford”), Jaguar Land Rover North America LLC (“Jaguar”), Volvo Cars of North America LLC (“Volvo”), and Nissan North America Inc. (“Nissan”) respectfully request that the Board deny Patent Owner Cruise Control Technologies LLC’s (“CCT”) motion requesting joinder of *inter partes* review proceeding IPR2014-00280 with separate *inter partes* review proceedings IPR2014-00279 (filed by Petitioners Subaru et al.), IPR2014-00281 (filed by Petitioners Ford et al.), IPR2014-00289 (filed by Petitioners Honda et al.), and IPR2014-00291 (filed by Petitioners Nissan et al.).

The Board should deny CCT’s motion because joinder at this time is impermissible by statute, would prejudice Petitioner Toyota, and would deny the Board “the focus and clarity afforded by [multiple] smaller proceedings with different prior art issues.” *Liberty Mutual Insurance Co. v. Progressive Casualty Insurance Co.*, CBM2012-00002, Paper 16 (February 22, 2013) at 2. Additionally, CCT has not met its burden in requesting joinder.

II. PRECISE RELIEF REQUESTED

Petitioner and co-Petitioners request that the Board deny CCT's motion for joinder of *inter partes* review proceedings IPR2014-00279, IPR2014-00280, IPR2014-00281, IPR2014-00289, and IPR2014-00291.

III. STATEMENT OF MATERIAL FACTS

1. On December 21, 2012, CCT filed separate complaints in the United States District Court for the District of Delaware respectively against Ford, Jaguar, Subaru, and Volvo alleging infringement of U.S. Patent No. 6,324,463 (the "'463 Patent"). Additionally, on January 15, 2013, CCT filed separate complaints in the United States District Court for the District of Delaware respectively against Honda, Nissan, and Toyota alleging infringement of the '463 Patent.

2. On December 20, 2013, Petitioner Subaru and co-Petitioners Toyota, Honda, Ford, Jaguar, Volvo, and Nissan filed a first *inter partes* review petition (IPR2014-00279) requesting review of claims 1-5, 12-16, 18-21, 23, 25-31, and 34-36 of the '463 Patent based on references *Mizuno* and *Miura*. *Subaru of America, Inc., et al. v. Cruise Control Technologies LLC*, IPR2014-00279, Paper 1 (December 20, 2013) at 6. Petitioner Subaru also submitted a supporting expert declaration by David A. McNamara. IPR2014-00279, Exhibit 1007 (December 20,

2013). Matthew D. Satchwell is the only Lead Counsel identified in the petition for IPR2014-00279. IPR2014-00279, Paper 1 at 3.

3. On December 20, 2013, Petitioner Toyota and co-Petitioners Subaru, Honda, Ford, Jaguar, Volvo, and Nissan filed a second *inter partes* review petition (IPR2014-00280) requesting review of claims 1-5, 12-16, 18, 19, 21, 25-28, and 34-36 of the '463 Patent based, *inter alia*, on primary references *Diamante Owner's Manual*, *Watanabe*, and *Celsior*. *Toyota Motor North America, Inc., et al. v. Cruise Control Technologies LLC*, IPR2014-00280, Paper 1 (December 20, 2013) at 6-7. Petitioner Toyota also submitted a supporting expert declaration by Paul Green. IPR2014-00280, Exhibit 1011 (December 20, 2013). William H. Mandir is the only Lead Counsel identified in the petition for IPR2014-00280. IPR2014-00280, Paper 1 at 2-3.

4. On December 20, 2013, Petitioner Ford and co-Petitioners Subaru, Toyota, Honda, Jaguar, Volvo, and Nissan filed a third *inter partes* review petition (IPR2014-00281) requesting review of claims 1-5, 12-31, and 34-36 of the '463 Patent based, *inter alia*, on primary references *Narita*, *NHTSA Report*, and *Nagashima*. *Ford Motor Co., et al. v. Cruise Control Technologies LLC*, IPR2014-00281, Paper 1 (December 20, 2013) at 5-6. Petitioner Ford also

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