

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NISSAN NORTH AMERICA INC., FORD MOTOR COMPANY,
AMERICAN HONDA MOTOR CO., INC., JAGUAR LAND ROVER
NORTH AMERICA LLC, SUBARU OF AMERICA INC., TOYOTA
MOTOR NORTH AMERICA, INC., and VOLVO CARS OF NORTH
AMERICA LLC
Petitioners

v.

CRUISE CONTROL TECHNOLOGIES LLC
Patent Owner

Case IPR2014-00291
Patent 6,324,463

**PATENT OWNER'S PRELIMINARY RESPONSE TO PETITION
FOR *INTER PARTES* REVIEW OF U.S. PATENT NO. 6,324,463
UNDER 35 USC §§ 311-319 AND 37 CFR §42.100 ET SEQ.**

Pursuant to 37 C.F.R. § 42.107(a) Patent Owner, submits the
following preliminary response to the petition.

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I. INTRODUCTION

This petition, along with the other four petitions simultaneously filed by Petitioners, represent a clear attempt to abuse the *inter partes* review process – a focused and time-sensitive evaluation of the validity of patent claims. The Board should reject all five petitions filed by Petitioners and refuse to endorse their inappropriate, game-the-system tactics.

Between Friday, December 20, 2013 and Monday, December 23, 2013, Petitioners, as a group, filed five separate petitions for *inter partes* review of certain claims of U.S. Patent No. 6,324,463 (“463 Patent”). IPR2014-00279; IPR2014-00280; IPR2014-00281; IPR2014-289; and IPR2014-00291. The five petitions make no mention of each other and are replete with intra-petition and inter-petition redundancies amongst the more than 180 separate alleged grounds of invalidity. For example, with regard to claim 1 alone, Petitioners have alleged five separate grounds of anticipation and four separate grounds of obviousness across five different petitions.

Further, Petitioners attempt to mislead the USPTO, crafting the petitions to make them appear like filings from separate parties. For example, not one of the petitions identifies any of the four other petitions under the required notice of related matters under 37 C.F.R. § 42.8(b)(2), and, in each petition, one of the Petitioners is designated as “the Petitioner”

while labeling the other four as “co-Petitioners.” Similarly, counsel for each petition is the same group of seven attorneys, but each petition designates a different attorney as lead counsel.

Accordingly, Petitioners are insisting that, absent joinder of the five proceedings, fifteen different Administrative Law Judges consider the same claim construction arguments and various overlapping and redundant alleged grounds of invalidity. To the extent the Board does not deny the petition outright for a clear abuse of process, the most efficient path forward is for the Board to join the five petitions and deny all redundant alleged grounds of unpatentability.

II. CLAIM CONSTRUCTION

A. “enabling the system “ (claim 1) / “enabling...the controller” (claim 2)

“Enabling the system” and “enabling the controller” should be construed as “putting the speed controller of the cruise control system into an operative condition.” Claim 1 recites, “a speed controller that automatically maintains the vehicle speed at a preset speed” and “an enable switch associated with said controller for enabling the system.” Claim 2 recites, “a cruise control enable switch associated with the controller for enabling the disabling the controller.” Thus, pressing or otherwise actuating

the enable switch puts the speed controller in an operative condition, in that the speed controller will automatically maintain the vehicle at a preset speed.

Petitioners propose that “enabling” means “turning on.” This proposed construction is too vague to provide any benefit when evaluating the validity of the claims. For example, one could say that when turning on a vehicle’s ignition switch, all systems of the vehicle are “turned on.” In claim 1, the “enable switch,” which is “associated with said [speed] controller,” is more specifically directed to “enabling the [cruise control] system” by putting the speed controller in an operative condition. Similarly, in claim 2, the cruise control enable switch is specifically directed to the state of the controller -- “enabling...the controller.”

Therefore, consistent with the intrinsic evidence, “enabling the system” and “enabling...the controller” should be construed as “putting the speed controller of the cruise control system in an operative condition.”

B. “when the controller is enabled” (claim 2) / “when the controller is initially enabled” (claim 4)

For similar reasons as stated above with regard to the “enabling” terms, “when the controller is [initially] enabled” should be construed as “when the controller is [initially] put in an operative condition.”

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