

RECORD OF ORAL HEARING  
UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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NISSAN NORTH AMERICA, INC., FORD MOTOR COMPANY,  
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.

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Case IPR2014-00291  
U.S. Patent 6,324,463

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Oral Hearing Held on Wednesday, March 25, 2015

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Before: JOSIAH C. COCKS, HYUN J. JUNG, and GEORGE R.  
HOSKINS (via video link), *Administrative Patent Judges*.

The above-entitled matter came on for hearing on Wednesday, March 25, 2015, at 10:00 a.m., in Hearing Room A, taken at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

Case IPR2014-00291  
U.S. Patent 6,324,463

APPEARANCES:

ON BEHALF OF THE PETITIONER TOYOTA MOTORS:

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ON BEHALF OF THE PATENT OWNER:

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1 P R O C E E D I N G S

2 (10:00 a.m.)

3 JUDGE COCKS: Please be seated. Good morning.  
4 This is the oral argument for IPR2014-00291. This is the fifth  
5 of five related proceedings all involving U.S. Patent  
6 6,324,463.

7 Let's begin with introductions of counsel, starting  
8 with Petitioner.

9 MR. RABENA: Good morning, Your Honor. I'm  
10 John Rabena from Sughrue Mion here on behalf of Petitioner,  
11 Toyota. I am here at counsel table with Fadi Kiblawi and  
12 William Mandir, also of my firm.

13 JUDGE COCKS: Thank you, Mr. Rabena. For  
14 Patent Owner?

15 MR. KASHA: Good morning, Your Honor. I'm  
16 John Kasha, lead counsel for Patent Owner. And with me is  
17 Mr. Timothy Salmon from Cruise Control Technologies. And  
18 he will be presenting oral argument today.

19 JUDGE COCKS: All right. Thank you, Mr. Kasha  
20 and Mr. Salmon.

21 As we set forth in our trial hearing order and as is  
22 fairly well established at this point, each side has 45 minutes.

23 Petitioner will begin and may reserve rebuttal time.  
24 Patent Owner will then argue their opposition. And the  
25 Petitioner will conclude with any time reserved.

1           So having that being said, Mr. Rabena, the floor is  
2 yours. Whenever you are ready.

3           MR. RABENA: Thank you, Your Honors. This  
4 petition was initially filed by the Nissan petitioner, and then  
5 they settled and we stepped in as the lead petitioner.

6           It is based primarily on -- there are three grounds,  
7 all based primarily on the Prometheus reference. The  
8 arguments raised by the Patent Owner are such that they all  
9 stand and fall on Prometheus.

10           There are no separate arguments regarding the  
11 Narita or Celsior issues or whether it is obvious to combine.  
12 It is all based on what is disclosed in Prometheus.

13           Before I get to the substance of Prometheus, I  
14 would like to address an issue that was raised in the Patent  
15 Owner response, in that they challenged or they objected to  
16 the authenticity of the Prometheus reference as being prior art.

17           And our view is that objection was untimely.  
18 Under 42.64, they had 10 days from institution to file any  
19 objections to the prior art we were relying on. And the rule  
20 specifically states that the reason that they have to do that at  
21 that time is to allow correction in the form of supplemental  
22 evidence; in other words, discovery on where it was published,  
23 who had it, who had access to this reference.

24           JUDGE COCKS: What was the rule you just cited?

1           MR. RABENA: 42.64. In particular I'm looking at  
2 Subsection (b)(1). And it states that the objection must be  
3 with sufficient particularity to allow correction in the form of  
4 supplemental evidence. It also states that there is a 10-day  
5 from institution time line.

6           There is also a requirement in that same rule that  
7 the Patent Owner subsequently file a motion to exclude. None  
8 of that has been done here. This was raised for the first time  
9 in the Patent Owner response.

10           And, as a result, we didn't have any opportunity to  
11 seek additional discovery into the extent of the publication of  
12 the reference. And since the author, Renault, was in France,  
13 we would have loved to do that discovery and we didn't have  
14 that chance.

15           In addition, the expert in this case, Mr. McNamara,  
16 I think, he designed cruise controls and interfaces, in his  
17 declaration he explains that, since 1995. And he talks about  
18 this reference and the Prometheus project.

19           And he says in paragraphs 43 to 45 that it was a  
20 large scale inter-governmental research project between eight  
21 or nine different European automotive makers and government  
22 agencies. There were no, you know, confidentiality. This was  
23 almost the entire automotive industry involved in this project.  
24 There were seminars, things like that, that are even cited in  
25 the exhibit.

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