

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEALS BOARD

BROSE NORTH AMERICA, INC.
and
BROSE FAHRZEUGTEILE GMBH & CO. KG, HALLSTADT,
Petitioners

v.

UUSI, LLC
Patent Owner

Case No. IPR2014-00416
Patent No. 8,217,612

PETITIONERS' REPLY

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. THE CHALLENGED CLAIMS ARE INVALID.....	2
A. Claims 1 and 2 are Invalid as (i) Obvious Over Itoh (Ground 1), (ii) Anticipated by Itoh Under a Broad Construction (Ground 2), and (iii) Obvious Over Itoh In View Of Kinzl (Ground 3)	2
B. Claim 5 is Invalid as Obvious Over Itoh (Ground 1), and Obvious Over Itoh In View Of Kinzl (Ground 3).....	4
C. Claims 6-8 are Invalid and Should Be Cancelled	7
III. MOTIVATION AND ABILITY TO COMBINE	13
IV. ENABLEMENT	14

I. INTRODUCTION

UUSI advocates contrived claim constructions designed to circumvent the prior art, even proposing constructions that contradict those used by UUSI in litigation prior to this IPR. UUSI's claim constructions not only ignore file histories that UUSI's proffered expert did not review, but also run afoul of the plain meaning of the claim language. UUSI's constructions should be rejected. Indeed, UUSI does not dispute that the challenged claims are invalid under Brose's proper construction. Moreover, they are invalid even under UUSI's incorrect constructions.^{1,2}

¹ Brose maintains, but does not separately address here, Grounds 7 and 8 because they present no additional issues over Grounds 1 and 3, respectively, as Brose relies on Zuckerman only for the obviousness of rewriting Itoh's equation, which UUSI does not dispute. *See* Response ("R") 14-17. The challenged claims are invalid based on Grounds 7 and 8. *See* Corr. Pet. 57-60; Ex. 1053 ¶¶ 88-105 (claims 1-2), 150; 152-53; 155-60; 163-65 (claim 5).

² UUSI states that the construction of "a control signal . . . to deactivate said motor" as recited in claims 1 and 6 is "irrelevant to the determination of patentability of the present claims." R. 13. Thus, that issue is not addressed in this brief.

II. THE CHALLENGED CLAIMS ARE INVALID³

A. Claims 1 and 2 are Invalid as (i) Obvious Over Itoh (Ground 1), (ii) Anticipated by Itoh Under a Broad Construction (Ground 2), and (iii) Obvious Over Itoh In View Of Kinzl (Ground 3)⁴

In response to Brose’s Grounds 1-3, as to claim 1, UUSI raises only a single purported distinction regarding the prior art. Contrary to its position in the litigation against Brose North America (“BNA”),⁵ UUSI now contends that the phrases “identifying a collision of the window or panel with an obstacle” and “sensing of a collision between an obstacle or panel” found in subparts (iii) and (iv) of limitation (d) correspond to two separate obstacle detection algorithms that are performed concurrently. R. 10-13. UUSI reads limitations into the claim that have no basis in the intrinsic evidence. Claim 1 should be given its plain and ordinary meaning, and be interpreted to encompass use of a single obstacle

³ The claims are invalid under either expert’s understanding of the level of ordinary skill in the art. Indeed UUSI’s proffered expert, Dr. Ehsani, opines that the level of ordinary skill in the art is even higher than what Brose’s expert believes it to be. Ex. 1053 ¶¶ 18-19.

⁴ Dependent claim 2 (which UUSI does not address in its Response) rises or falls with independent claim 1.

⁵ See, e.g., Ex. 1021 18-19 and Ex. 1048 14-16, 40-42 (conflating “identifying” and “sensing” and making no mention of any two distinct algorithms).

detection algorithm used for identifying a collision, followed by deactivating the motor. Under the proper construction of the terms at issue, UUSI has identified no difference between claims 1-2 and the prior art, and the claims are anticipated and obvious. Ex. 1053 ¶¶ 69; 73-74; 77-78; 83-86.

Alternatively, even under UUSI's construction, claims 1-2 still would have been obvious because a person of ordinary skill in the art ("POSA") would recognize that the obstacle detection algorithms disclosed in Itoh and Kinzl could be easily modified to include a second algorithm (such as Kinzl's "blocking counter" algorithm). *Id.* ¶ 87.

1. UUSI relies on an unnatural reading of the claim

UUSI attempts to draw a line between subparts of limitation (d) of claim 1 by contending that it recites two distinct algorithms. R. 12. This cannot be squared with the plain language of the claim. Ex. 1053 ¶¶ 25-30. Subparts (i)-(iii) describe monitoring movement, adjusting an obstacle detection threshold in real time, and identifying a collision of the window. They do not describe any action to be taken as a result of identifying a collision. It is only in subpart (iv) that any action is taken as a result of a collision (outputting a control signal to deactivate the motor). Under UUSI's proposed construction, the "identifying" limitation (d)(iii) has no purpose (which also means that the "monitoring" and "adjusting" limitations of (d)(i) and (d)(ii) are also void of any purpose or result). *See* R. 12-

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