

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEALS BOARD

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

v.

UUSI, LLC  
Patent Owner

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Case No. IPR2014-00417  
Patent No. 7,579,802

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**PETITIONERS' REPLY**

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## TABLE OF CONTENTS

	<b>Page</b>
I. INTRODUCTION .....	1
II. CLAIM 1 IS INVALID AND SHOULD BE CANCELLED .....	1
A. Claim Construction: The “Sensor” Limitation.....	1
B. Invalidity .....	3
III. CLAIM 6 IS INVALID AND SHOULD BE CANCELLED .....	4
IV. CLAIMS 7-9 ARE INVALID AND SHOULD BE CANCELLED.....	6
A. Claim Construction - The “Sensor” Limitation .....	6
B. Claim Construction - The “Travel Path” Limitation.....	8
C. Invalidity .....	9
V. CLAIM 14 IS INVALID AND SHOULD BE CANCELLED .....	12
A. Claim Construction - Limitations (c) And (c)(i)-(iv).....	12
B. Invalidity .....	13
VI. MOTIVATION AND ABILITY TO COMBINE .....	14
VII. ENABLEMENT .....	14
VIII. CONCLUSION.....	15

## 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. The claims in many cases are invalid even under UUSI's incorrect constructions, but in *all* cases, the challenged claims are invalid under Brose's proposed constructions, which UUSI does not dispute.<sup>1</sup>

## II. CLAIM 1 IS INVALID AND SHOULD BE CANCELLED

### A. Claim Construction: The "Sensor" Limitation

The "sensor" limitation should be given its plain meaning, which includes any sensor that measures any motor parameter that varies as a result of resistance to motion. Ex. 1063 ¶ 26. This includes a current value (amplitude or magnitude) sensor, or various types of speed sensors (*e.g.*, Hall effect, rotary encoders, motor current commutation pulse ("MCCP") sensors). *Id.* ¶¶ 24, 27-29. Before this IPR,

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<sup>1</sup> 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 ¶¶ 19-20.

UUSI agreed that claim 1 included a Hall effect sensor. Ex. 1033 at 14-16; Ex. 1059 at 1-10, 13-22, 24-33; *see also* Ex. 1063 ¶¶ 54-56.

UUSI's argument that parts of the specification are "consistent" with its construction (Response ("R.") 14) does not save its construction; even if correct, such "consistency" is far from express and unambiguous disavowal or definition of a speed sensor. Ex. 1063 ¶¶ 43-48. Indeed, the '802 patent discloses use of various types of sensors and parameters, including speed sensors and specifically MCCP sensors. *Id.* ¶¶ 43-46. Similarly, the file history does not "require" UUSI's narrow construction. R. 13. It contains no disavowal of the plain and ordinary meaning of the "sensor" limitation, and *UUSI does not argue otherwise*. Instead, UUSI argues that charts provided to establish priority were "narrowing distinctions." R. 13-14. The charts are not a "clear" disavowal."<sup>2</sup> Ex. 1063 ¶ 51. The file history actually shows that the Examiner understood the "sensor" limitation as *not* limited to a current amplitude sensor, and as including a speed sensor. *Id.* ¶¶ 52-53. The claims of related U.S. Patent No. 6,064,165 also demonstrate that the claimed "parameter" sensed by the "sensor" can be "speed." *Id.* ¶ 41. Claim differentiation does not save UUSI's construction. R. 15. Brose's proposed constructions do not result in claims 1 and 7 having the same scope. Ex. 1063 ¶ 40, 73.

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<sup>2</sup> UUSI acknowledges this elsewhere in its Response. R. 34.

Dr. Ehsani tries to justify UUSI's construction by theorizing that speed is not always a parameter that changes with resistance to motion. Ex. 2001 ¶¶ 54-55. But his explanation is devoid from the apparatus of claim 1, in which motor speed will decrease in response to resistance to motion. Ex. 1063 ¶¶ 30-35. Moreover, it is illogical for claim 1 to include a current amplitude sensor, but not a MCCP sensor, which utilizes the same structure as a current amplitude sensor. Ex. 1063 ¶¶ 36-38.

## **B. Invalidity**

Grounds 1 and 2 - Obviousness Over and Anticipation by Itoh. UUSI's arguments regarding Grounds 1 and 2 are premised entirely on its improper claim construction. UUSI does not dispute that, under Brose's construction, Itoh anticipates and renders obvious claim 1. *Id.* ¶¶ 139-42. 147-51.

Ground 5 - Obviousness Over Itoh in View of Kinzl. UUSI argues that (1) Kinzl does not teach or suggest a current amplitude sensor, and (2) Itoh and Kinzl cannot be combined. Under Brose's construction of the "sensor" limitation, Itoh discloses all elements of claim 1 and renders it obvious; Kinzl also discloses the claimed "sensor." UUSI's argument that Itoh and Kinzl cannot be combined hinges on UUSI's incorrect construction of the sensor limitation. Under the proper construction, claim 1 is obvious over Itoh in view of Kinzl. *Id.* ¶¶ 157-60.

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