

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the *Inter Partes* Review of:

Trial Number: To Be Assigned

U.S. Patent No. 7,579,802

Filed: January 27, 2004

Issued: August 25, 2009

Inventor(s): Mario Boisvert, Randall
Perrin, John Washeleski

Assignee: UUSI, LLC

Title: Collision Monitoring System

Panel: To Be Assigned

Mail Stop *Inter Partes* Review
Commissions for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**DECLARATION OF DR. C. ARTHUR MACCARLEY UNDER 37 C.F.R. §
1.68 IN SUPPORT OF PETITION FOR *INTER PARTES* REVIEW OF
U.S. PATENT NO. 7,579,802**

TABLE OF CONTENTS

I.	INTRODUCTION	4
II.	BACKGROUND AND QUALIFICATIONS	9
III.	UNDERSTANDING OF PATENT LAW	11
IV.	BACKGROUND	14
A.	Background of the Field Relevant to the '802 Patent	14
B.	Summary of the '802 Patent.....	16
C.	Summary of the Prosecution History	25
V.	LEVEL OF ORDINARY SKILL IN THE PERTINENT ART	29
VI.	CLAIM CONSTRUCTION	31
VII.	DETAILED INVALIDITY ANALYSIS	37
A.	Background on Prior Art References	38
1.	Summary of Itoh	38
2.	Summary of Kinzl.....	45
3.	Summary of Zuckerman	49
B.	The Challenged Claims are Each Invalid as Obvious Over Itoh in View of the Ordinary Skill in the Art.	50
1.	Claim 1	50
2.	Claim 6.....	58
3.	Claim 7	59
4.	Claim 8.....	72
5.	Claim 9.....	72
6.	Claim 14.....	73

C.	Under UUSI’s Apparent Constructions, Itoh Anticipates Each of the Challenged Claims	85
1.	Claim 1	86
2.	Claim 6	87
3.	Claim 7	87
4.	Claims 8 and 9	88
5.	Claim 14	89
D.	Claims 7, 9, and 14 are Anticipated by Kinzl	90
1.	Claim 7	90
2.	Claim 9	98
3.	Claim 14	99
E.	Claims 7, 9, and 14 are Invalid as Obvious over Kinzl in View of the Ordinary Skill in the Art.	107
1.	Claim 7	108
2.	Claim 9	109
3.	Claim 14	110
F.	Claims 1, 6-9, and 14 are Obvious under 35 U.S.C. § 103(a) over Itoh combined with Kinzl in View of the Ordinary Skill in the Art.	111
1.	Claim 1	112
2.	Claim 6	114
3.	Claim 7	114
4.	Claim 8	119
5.	Claim 9	120
6.	Claim 14	120

7.	Combining Kinzl and Itoh	125
G.	Claims 7-9 and 14 are Invalid as Obvious Over Itoh in View of the Ordinary Skill in the Art and Zuckerman.....	127
1.	Claim 7	128
2.	Claim 9	129
3.	Claim 14	130
4.	Combining Itoh and Zuckerman	131
H.	Claims 7-9 and 14 are Invalid as Obvious Over Itoh in View of the Ordinary Skill in the Art, Kinzl and Zuckerman.....	133
1.	Claim 7	135
2.	Claim 9	136
3.	Claim 14	137
4.	Combining Itoh, Kinzl and Zuckerman	137
VIII.	SECONDARY CONSIDERATIONS OF NON-OBVIOUSNESS	138
IX.	CONCLUSION.....	145

I, C. Arthur MacCarley, do hereby declare as follows:

I. INTRODUCTION

1. I have been retained as an expert witness for the above-captioned Petition for *Inter Partes* Review (“IPR”) of U.S. Patent No. 7,579,802 (“the ’802 Patent”). I am being compensated for my time in connection with this IPR at my standard consulting rate of \$150.00 per hour. My compensation is not affected by the outcome of this matter.

2. I have been asked to provide my opinions regarding whether claims 1, 6-9, and 14 (“the Challenged Claims”) of the ’802 Patent are invalid as anticipated or because they would have been obvious to a person having ordinary skill in the art at the time of the alleged invention.

3. The ’802 Patent issued on August 25, 2009, from U.S. Patent Appl. No. 10/765,487 (“the ’802 Application”), filed on January 27, 2004. (Ex. 1005, the ’802 Patent.) I have been asked to assume that the invention date of each of claims 1, 6-9, and 14 of the ’802 Patent is April 22, 1992, the filing date of the earliest parent application (US Patent No. 5,334,876 or the ’876 Patent) to which the ’802 Patent could conceivably claim priority. To the extent the invention date of any of claims 1, 6-9, and 14 is later than April 22, 1992, my analysis still applies, and my conclusions regarding invalidity remain the same: if (as I

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.