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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

UUSI, LLC  
Patent Owner

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Case IPR2014-00417  
Patent 7,579,802

PATENT OWNER'S PRELIMINARY RESPONSE

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Pursuant to 35 U.S.C. § 313 and 37 C.F.R. § 42.107, Patent Owner UUSI, LLC (“UUSI”) submits the following Preliminary Response to the Petition for *Inter Partes* Review of Patent No. 7,579,802 (“the ‘802 patent”).

## I. INTRODUCTION

The Corrected Petition (Paper No. 6, “Petition”) for *inter partes* review of the ‘802 patent should be denied at least in part. The Petitioner does not meet its *prima facie* burden in establishing anticipation, failing to establish a reasonable likelihood that the applied references teach each and every limitation of the ‘802 patent claims. Petitioner’s other proposed anticipation grounds shall also fail, but these more substantive issues will be later addressed if the *inter partes* action proceeds.

Although the Petitioner does not meet its burden in establishing a reasonable likelihood of obviousness with respect to the challenged claims, UUSI will address the deficiencies of the obviousness grounds as may be necessary and appropriate if *inter partes* review is instituted. In other words, this Preliminary Response simply refutes the clearest alleged grounds of unpatentability asserted by Petitioner without requiring a full substantive claim-by-claim analysis; the Pa-

tent Owner shall challenge the Petitioner's other grounds at a later time.

## **II. TRIAL SHOULD NOT BE INSTITUTED FOR PETITIONER'S FAILURE TO SET FORTH A PRIMA FACIE SHOWING**

### **A. GROUNDS 1, 2, 5, 6, AND 7**

With respect to Ground 2, the Petition fails to establish a reasonable likelihood that Claims 7-9 are anticipated by Patent No. 4,870,333 ("Itoh", Ex. 1007).

With respect to Ground 1, the Petition fails to establish a reasonable likelihood that Claims 7-9 are obvious over Itoh in view of ordinary skill in the art.

With respect to Ground 5, the Petition fails to establish a reasonable likelihood that Claims 7-9 are obvious over Itoh in view of ordinary skill in the art and Patent No. 4,468,596 ("Kinzl", Ex. 1008).

With respect to Ground 6, the Petition fails to establish a reasonable likelihood that Claims 7-9 are obvious over Itoh in view of ordinary skill in the art and Patent No. 5,069,000 ("Zuckerman", Ex. 1009).

With respect to Ground 7, the Petition fails to establish a reasonable likelihood that Claims 7-9 are obvious over Itoh in view of ordinary skill in the art, Kinzl, and Zuckerman.

## 1. GROUND 2

### a) *CLAIM LIMITATIONS*

Claim 7 recites “a movement sensor for monitoring movement of the object as the motor moves said object along a travel path.” Ex. 1005 at 28:26-27.

### b) *“MOVEMENT SENSOR”*

The term “movement sensor” in Claim 7 contrasts with the term “sensor” used in independent Claims 1 and 14, which respectively recite “a sensor for measuring a parameter of a motor coupled to the motor driven element that varies in response to a resistance to motion during all or part of a range of motion of the motor driven element” (Ex. 1005 at 27:34-37) and “a sensor for sensing movement of a window or panel along a travel path” (Ex. 1005 at 29:20-21).

The specification and prosecution history of the ‘802 patent explain that there is a distinction between measuring current, which is often referred to as “sensorless” motor control, and sensing movement of the motor or window using a specialized sensor, such as a Hall ef-

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