

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

UUSI, LLC,
Patent Owner.

Case IPR2014-00417
Patent 7,579,802

Before GLENN J. PERRY, HYUN J. JUNG, and GEORGE R. HOSKINS,
Administrative Patent Judges.

HOSKINS, *Administrative Patent Judge.*

DECISION
Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

On February 6, 2014, Brose North America, Inc. and Brose Fahrzeugteile GmbH & Co. KG, Hallstadt (collectively “Petitioner”) filed a Petition requesting *inter partes* review of claims 1, 6–9, and 14 of U.S. Patent No. 7,579,802 (Ex. 1005, “the ’802 patent”). Petitioner filed a Corrected Petition (Paper 6, “Corrected Petition” or “Pet.”) on February 24, 2014. UUSI, LLC¹ (“Patent Owner”) filed a Preliminary Response (Paper 10, “Prelim. Resp.”) on May 6, 2014. We have jurisdiction under 35 U.S.C. § 314.

To institute an *inter partes* review, we must determine the information presented in the Corrected Petition and the Preliminary Response shows “a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a). Petitioner contends the challenged claims are unpatentable under 35 U.S.C. §§ 102 and 103. *See* Pet. 4. We determine there is a reasonable likelihood Petitioner would prevail in showing the unpatentability of claims 1, 6–9, and 14. We therefore institute an *inter partes* review as to those claims. Our factual findings and conclusions at this stage of the proceeding are based on the evidentiary record developed thus far (prior to Patent Owner’s Response). This is not a final decision as to patentability of claims for which *inter partes* review is instituted. Our final decision will be based on the record as fully developed during trial.

¹ The record is unclear whether the correct spelling is “UUSI” or “USSI.” *Compare, e.g.*, Paper 7 (Power of Attorney for “UUSI, LLC”) *with* Paper 8 (identifying “USSI, LLC” as the real party-in-interest). We use the former, because it appears more often than the latter.

A. The '802 Patent

The '802 patent discloses a system and method for sensing obstructions to the travel path of a moveable panel, such as a sunroof. *See* Ex. 1005, Abstract. Figure 1 is shown below:

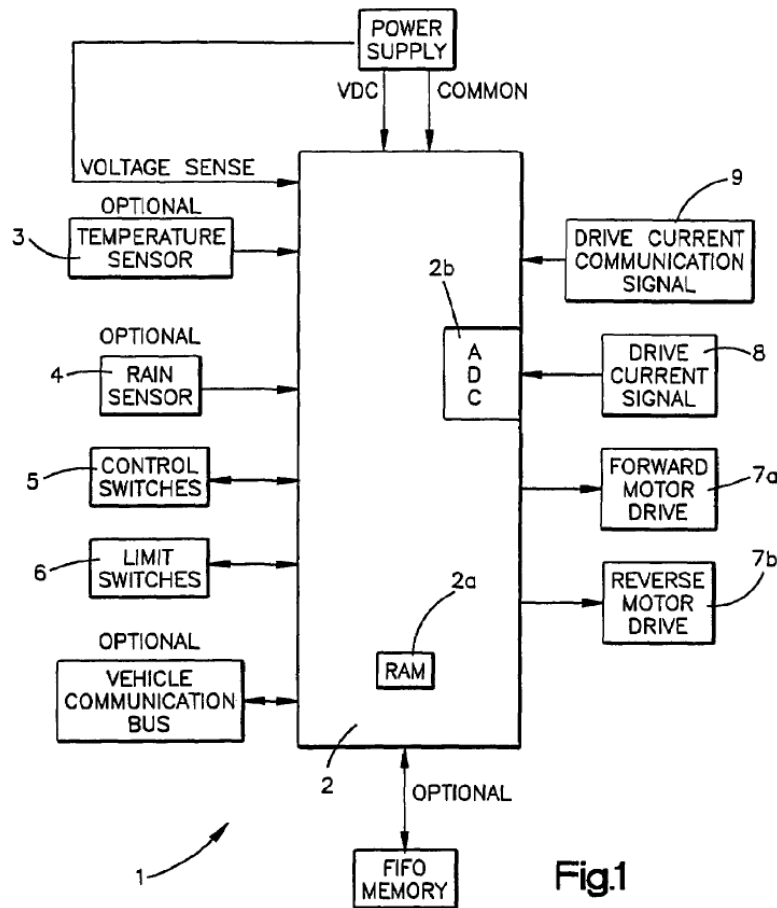


Figure 1 is a schematic of an exemplary actuator safety feedback control system 1. *See id.* at 2:26–27, 2:65–66. Controller 2 monitors and controls movement of a motor driven panel. *See id.* at 2:65–3:5. Motor drive outputs 7a and 7b control whether the motor (not shown in Figure 1) drives the panel in a forward or a reverse direction. *See id.* at 3:38–39. Controller 2 can sense obstacles in the panel’s path in various ways, including a paired infrared emitter and detector disposed along the panel’s path (*see id.* at 3:63–

4:53), a motor current monitor (*see id.* at 5:53–57, 7:26–8:3), and other motor monitors (*see id.* at 11:9–32).

B. *Illustrative Claim*

Claim 7 of the '802 patent is illustrative:

7. Apparatus for controlling activation of a motor for moving an object along a travel path and de-activating the motor if an obstacle is encountered by the object comprising:

a) a movement sensor for monitoring movement of the object as the motor moves said object along a travel path;

b) a switch for controlling energization of the motor with an energization signal; and

c) a controller including an interface coupled to the switch for controllably energizing the motor and said interface additionally coupling the controller to the movement sensor for monitoring signals from said movement sensor; said controller comprising a stored program that:

i) determines motor speed of movement from an output signal from the movement sensor;

ii) calculates an obstacle detect threshold based on motor speed of movement detected during a present run of said motor driven element;

iii) compares a value based on currently sensed motor speed of movement with the obstacle detect threshold; and

iv) outputs a signal from the interface to said switch for stopping the motor if the comparison based on currently sensed motor movement indicates the object has contacted an obstacle.

C. *Related Matters*

Petitioner and Patent Owner have identified two district court proceedings involving the '802 patent. The first is *UUSI, LLC v. Robert Bosch LLC and Brose North America, Inc.*, No. 2:13-cv-10444 (E.D. Mich.), filed on February 4, 2013. *See* Pet. 1; Paper 8, 2. The second is *UUSI, LLC*

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v. Webasto Roof Systems, Inc., No. 2:13-cv-11704 (E.D. Mich.), filed on April 15, 2013. *See id.* The '802 patent belongs to a family of patents involved in multiple *inter partes* reviews including IPR2014-00416, IPR2014-00417, IPR2014-00648, IPR2014-00649, and IPR2014-00650.

D. Prior Art Relied Upon

Itoh	US 4,870,333	Sept. 1989	Ex. 1007
Kinzl	US 4,468,596	Aug. 1984	Ex. 1008
Zuckerman	US 5,069,000	Dec. 1991	Ex. 1009

E. Asserted Grounds of Unpatentability

Petitioner contends claims 1, 6–9, and 14 of the '802 patent are unpatentable based on the following grounds. *See* Pet. 4.²

Basis	Reference(s)	Claim(s) Challenged
§ 102(b)	Itoh	1, 6–9, and 14
§ 103(a)	Itoh	1, 6–9, and 14
§ 102(b)	Kinzl	7, 9, and 14
§ 103(a)	Kinzl	7, 9, and 14
§ 103(a)	Itoh and Kinzl	1, 6–9, and 14
§ 103(a)	Itoh and Zuckerman	7–9 and 14
§ 103(a)	Itoh, Kinzl, and Zuckerman	7–9 and 14

² The Corrected Petition further identifies “the ordinary skill in the art” as a reference for each proposed ground based on 35 U.S.C. § 103(a). *See* Pet. 4. We omit that here for brevity and because § 103(a) itself provides that ordinary skill in the art is part of every obviousness determination. *See, e.g., Graham v. John Deere Co., of Kansas City*, 383 U.S. 1 (1966).

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