

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

**PETITIONERS' MOTION TO SUBMIT SUPPLEMENTAL
INFORMATION**

Pursuant to 37 C.F.R. 42.123, Petitioners Brose North America, Inc. and Brose Fahrzeugteile GmbH & Co. KG, Hallstadt (collectively, “Brose”) hereby move to submit as supplemental information one U.S. patent and two U.S. patent publications. All three patent documents are related to the patent at issue in this *inter partes* review, U.S. Patent No. 7,579,802 (“the ’802 patent”), and identify Patent Owner UUSI, LLC (“UUSI”) as assignee. Brose’s request meets the standard for supplemental information because the patent documents are “relevant to” at least claim 7 of the ’802 patent “for which the trial has been instituted” of 37 C.F.R. 42.123(a)(2). More specifically, the three patent documents are relevant to construction of the claim phrase “a movement sensor for monitoring movement of the object...” in claim 7. Inclusion of these documents in the record as supplemental information also would be consistent with the Board’s “mandate to ensure the efficient administration of the Office and the ability of the Office to complete IPR proceedings in a timely manner” and its “duty to secure the just, speedy, and inexpensive resolution of every proceeding.” *Redline Detection LLC v. Star Envirotech, Inc.*, Case No. IPR2013-00106, Paper 35 at 3–4 (PTAB Sep. 11, 2013) (internal quotation marks omitted).

UUSI has indicated that it does not oppose this motion. Authorization to file the motion was granted on September 4, 2014. *See* Order Conduct of the Proceeding, Paper 18 (Sep. 16, 2014) at 4.

I. BACKGROUND

The Board instituted IPR of the '802 patent on August 1, 2014, on all grounds included in Brose's Petition, including five grounds based on (at least in part) prior art reference Itoh (U.S. Patent No. 4,870,333). Paper 11 at 26. IPR was instituted as to all claims in Brose's Petition: claims 1, 6–9, and 14. *Id.*

Claim 7 of the '802 patent states:

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.

Ex. 1005 at claim 7 (emphasis added). The limitation, “a movement sensor for monitoring movement of the object” (“Limitation (a)”) was addressed in Brose's

Petition, in UUSI's Preliminary Response, and in the Institution Decision. Paper 6 at 6–7; Paper 10 at 5–10; Paper 11 at 7–9.

Brose proposed that Limitation (a) be “construed to include both direct and indirect sensing of the window/panel movement, and not limited to just direct sensing,” pointing out that such a construction is supported by, *inter alia*, the patent specification and the prosecution history. Paper 6 at 6–7. Brose's construction would include indirectly sensing movement of a window or panel by monitoring one or more characteristics of the motor driving movement.

In its Preliminary Response, UUSI argued that Limitation (a) should be narrowly construed to be limited to a “specialized sensor” and exclude “a ‘sensorless’”—*i.e.*, indirect—“ability to measure current.” Paper 10 at 6. UUSI's proposed construction was aimed at excluding a sensor like that shown in prior art reference Itoh (Ex. 1007), in which the sensor monitors movement of the object (*e.g.*, a window or sunroof) by sensing commutation pulses of the motor current. Ex. 1007 at 7:60-64, Figs. 7–8; *see also id.* at 5:6–10, 8:33–48, 9:16–34, 9:37–62.

The Board adopted, for purposes of its Institution Decision, Brose's construction of Limitation (a) and declined to adopt UUSI's proposed construction,

most importantly because claim 7's dependent claim 13 specifies “the sensor is a current sensor” which senses “dynamic motor current.” It would make no sense for claim 13 to specify that the sensor of claim 7 is a current sensor unless the sensor of claim 7 is sufficiently broad to include a current sensor and other sensors.”

Paper 11 at 8.

Thus, the proper construction of Limitation (a)—and whether is it limited to a “specialized sensor,” as UUSI claims, or is broader and encompasses indirect sensing— is a disputed issue in the IPR.

II. UUSI’S PATENT DOCUMENTS ARE RELEVANT TO CLAIM 7

The three patent documents Brose seeks to submit as supplemental information are:

- U.S. Patent No. 6,404,158 (the “’158 patent”);
- U.S. Patent Application Publication No. 2002/0121872 (the “’872 publication”); and
- U.S. Patent Application Publication No. 2002/0101210 (the “’210 publication”).

Each of these documents is related to the ’802 patent, identifies UUSI as assignee, contains claim language similar to the claim terms at issue with regard to claim 7 of the ’802 patent, and is relevant to the proper construction of Limitation (a) of claim 7.

A. The ’158 Patent

The ’158 patent is entitled “Collision Monitoring System.” Ex. 1044. The ’158 patent is the “grandparent” of the ’802 patent. *See* Ex. 1034. It claims priority to the same patent/application as the ’802 patent. *Id.* The identified assignee of the ’158 patent is UUSI, and its two named inventors, Mario Boisvert

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