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Paper 17
Entered: November 26, 2014

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FORD MOTOR COMPANY,
Petitioner

v.

PAICE LLC & THE ABELL FOUNDATION, INC.,
Patent Owner

Case IPR2014-00570
Patent 8,214,097 B2

Before SALLY C. MEDLEY, KALYAN K. DESHPANDE, and CARL M. DEFRANCO, *Administrative Patent Judges*.

DEFRANCO, *Administrative Patent Judge*.

DECISION
Petitioner's Request for Rehearing
37 C.F.R. § 42.71

INTRODUCTION

Petitioner, Ford Motor Company, requests rehearing (Paper 13, "Req. Reh'g.") of the Board's Decision (Paper 10, "Dec."), which instituted *inter partes* review of claims 30–33, 35, 36, and 39 of U.S. Patent No. 8,214,097 B2 ("the '097 patent"). In particular, Ford seeks rehearing of certain grounds on which we denied review, namely, the grounds of obviousness that relied on Caraceni, either alone or in combination with Boberg. Req. Reh'g. 1. Ford's request for rehearing is *denied*.

ANALYSIS

Pursuant to 35 U.S.C. § 316(b), rules for *inter partes* proceedings were promulgated to take into account the "regulation on the economy, the integrity of the patent system, the efficient administration of the Office, and the ability of the Office to timely complete proceedings." The promulgated rules are to "be construed to secure the just, speedy, and inexpensive resolution of every proceeding." 37 C.F.R. § 42.1(b). As a result, and in determining whether to institute an *inter partes* review of a patent, the Board may exercise its discretion to "deny some or all grounds for unpatentability for some or all of the challenged claims." 37 C.F.R. § 42.108(b).

Here, the Board exercised its discretion in denying the grounds that relied on Caraceni and Boberg because Ford did "not articulate reasonably how the implicit teaching of a stoichiometric ratio by Caraceni and Boberg is meaningfully distinctive from the express teaching of this same limitation by Severinsky and Anderson." Dec. 11. On rehearing, Ford argues that the Board abused its discretion because the grounds based on Caraceni and

Boberg present "different information in a different way than the combination of Severinsky'970 and Anderson." Req. Reh'g. 2–3.

An abuse of discretion occurs when a decision is based on an erroneous interpretation of law, or if a factual finding is not supported by substantial evidence, or if the decision represents an unreasonable judgment in weighing relevant factors. *Arnold Partnership v. Dudas*, 362 F.3d 1338, 1340 (Fed. Cir. 2004). Ford has not demonstrated an abuse of our discretion.

Although Ford contends that the grounds on which we denied institution are "different" from the grounds on which we instituted trial, the proper focus of a challenge based on multiple grounds is not simply whether a difference exists between the grounds. Rather, the petitioner must explain some meaningful advantage for proceeding on multiple grounds in terms of their variant strengths and weaknesses as applied to the challenged claim. Where the petition fails to include a sufficient explanation as to how the asserted grounds differ from one another, the Board is within its discretion to presume that one ground is weaker than another ground, and, thereby, deny institution on the ground that is perceived to be weaker.

Here, Ford expressly acknowledges that, with respect to the "stoichiometric ratio" limitation of independent claim 30, the combination of Caraceni and Boberg includes a "potential deficiency" not found in the combination of Severinsky '970 and Anderson. Pet. 59 (recognizing that the combination of Severinsky '970 and Anderson "overcomes the potential deficiency of Caraceni and Boberg"). In that context, we are not informed

by either the petition or the rehearing request as to how the combination of Caraceni and Boberg exhibits any meaningful advantage over the combination of Severinsky '970 and Anderson upon which we instituted trial of claim 30. As such, our decision denying institution of the grounds relying on Caraceni and Boberg, which Ford admits are deficient in regard to the claimed "stoichiometric ratio" limitation, does not amount to an abuse of discretion.

Moreover, we are not persuaded that Ford's Caraceni-based grounds even demonstrate a reasonable likelihood of meeting the "stoichiometric ratio" limitation of claim 30. For example, Ford relies primarily on Caraceni's disclosure of a "three-way catalyst" as "necessarily" teaching combustion at or near a stoichiometric ratio. Pet 37, 40–42. But Ford's own evidence indicates that more details need to be known about Caraceni's three-way catalyst before making the leap that its disclosure necessarily teaches stoichiometric combustion. *See*, *e.g.*, Ex. 1011 at 304 ("Depending on the details of the three-way catalyst used for cleanup of all three pollutants (CO, HC, and NO,) in the exhaust, the optimum average equivalence ratio *may not be precisely the stoichiometric value*") (emphasis added). Given this apparent gap in Ford's evidence, our denial of the Caraceni-based grounds does not amount to an abuse of discretion.

CONCLUSION

For all of the above reasons, Ford's Request for Rehearing is *denied*.

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