

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

PAICE LLC,

Plaintiff,

v.

TOYOTA MOTOR CORPORATION, a  
Japanese Corporation, TOYOTA MOTOR  
NORTH AMERICA, INC., and TOYOTA  
MOTOR SALES, U.S.A., INC.,

Defendants.

Case No.: 2-07-cv-180-DF

**PLAINTIFF PAICE LLC'S OPENING BRIEF ON CLAIM CONSTRUCTION**

Dated: June 25, 2008

Samuel F. Baxter (Bar No. 01938000)  
McKOOL SMITH P.C.  
P.O. Box O  
104 E. Houston St., Suite 300  
Marshall, Texas 75670  
(903) 923-9000

Of Counsel:

Ruffin B. Cordell (Bar No. 04820550)  
Ahmed J. Davis  
Scott A. Elengold  
FISH & RICHARDSON P.C.  
1425 K Street, N.W., 11<sup>th</sup> Floor  
Washington, DC 20005  
(202) 783-5070

Robert E. Hillman  
FISH & RICHARDSON P.C.  
225 Franklin Street  
Boston, MA 02110  
(617) 542-5070

**TABLE OF CONTENTS**

	<b><u>Page</u></b>
I. INTRODUCTION .....	1
A. Technological Overview .....	1
B. The Parties .....	2
C. Legal Background.....	3
II. THE PAICE PATENTS.....	4
A. United States Patent No. 5,343,970 .....	4
B. United States Patent No. 7,104,347 .....	6
C. United States Patent No. 7,237,634 .....	9
III. LEGAL STANDARDS OF CLAIM INTERPRETATION .....	9
A. Principles of Claim Construction.....	9
B. Construction of Means-Plus-Function Claim Elements .....	12
IV. PROPOSED INTERPRETATION OF DISPUTED CLAIM TERMS .....	13
A. '970 Patent .....	13
1. Claim 11 .....	13
a. "Controllable torque transfer unit" .....	14
2. Claim 39.....	15
a. "Means for performing the following functions responsive to input commands and monitored operation of said vehicle: selecting an appropriate mode of operation..." .....	16
B. '347 Patent .....	17
1. Claim 7.....	18
a. "Controllably coupled" .....	19
b. "Setpoint" and/or "SP" .....	19
c. "Road load" and/or "RL" .....	20
d. "Normally aspirated" .....	21
e. "Low-load mode I" .....	21
f. "Highway cruising mode IV" .....	21

**TABLE OF CONTENTS (cont'd)**

		<b><u>Page</u></b>
	g. “Acceleration mode V” .....	21
C.	’634 Patent .....	22
	1. Claim 215.....	22
	a. “Road load” or “RL” .....	23
	b. “Setpoint” and/or “SP” .....	23
	c. “Operating at least one electric motor to propel the hybrid vehicle when the RL required to do so is less than a setpoint (SP)” .....	23
	d. “Operating an internal combustion engine of the hybrid vehicle to propel the hybrid vehicle when the RL required to do so is between the SP and a maximum torque output (MTO) of the engine, wherein the engine is operable to efficiently produce torque above the SP, and wherein the SP is substantially less than the MTO” .....	24
	e. “Operating both the at least one electric motor and the engine to propel the hybrid vehicle when the torque RL required to do so is more than the MTO” .....	24
	2. Claim 295.....	25
	a. “Energy originating at the battery is supplied to the solid state inverter at a voltage and current such that the ratio of voltage to current is at least about 2.5 to 1” .....	26
	3. Claim 298.....	26
	a. “Wherein energy originating at the battery is supplied to the solid state inverter at a maximum current of no more than 150 amps” .....	27
	4. Claim 305.....	27
	a. “Energy originating at the battery is supplied to the second motor at a peak voltage of at least about 500 volts.....	28
	5. Claim 306.....	28
	a. “Power originating at the battery is supplied to the second motor at a peak current no greater than about 150 amps” .....	28
V.	CONCLUSION.....	29

**TABLE OF AUTHORITIES**

	<b><u>Page(s)</u></b>
<b><u>Federal Cases</u></b>	
<i>ACTV Inc. v. Walt Disney Co.</i> ,	
346 F.3d 1082 (Fed. Cir. 2003).....	13
<i>Bayer AG v. Biovail Corp.</i> ,	
279 F.3d 1340 (Fed. Cir. 2002).....	12
<i>Biotec Biologische Naturverpackungen GmbH &amp; Co. KG v. Biocorp, Inc.</i> ,	
249 F.3d 1341 (Fed. Cir. 2001).....	11
<i>Dana v. E.S. Originals, Inc.</i> ,	
342 F.3d 1320 (Fed. Cir. 2003).....	12
<i>Duffy &amp; McGovern Accommodation Services v. QCI Marine Offshore, Inc.</i> ,	
448 F.3d 825 (5th Cir. 2006) .....	12
<i>Gemstar-TV Guide Int’l, Inc. v. ITC</i> ,	
383 F.3d 1352 (Fed. Cir. 2004).....	10, 13
<i>Liebel-Flarsheim Co. v. Medrad, Inc.</i> ,	
358 F.3d 898 (Fed. Cir. 2004).....	11
<i>Linear Tech. Corp. v. Impala Linear Corp.</i> ,	
379 F.3d 1311 (Fed. Cir. 2004).....	13
<i>Markman v. Westview Instruments, Inc.</i> ,	
52 F.3d 967 (Fed. Cir. 1995).....	9, 12
<i>Merck &amp; Co., Inc. v. Teva Pharm. USA, Inc.</i> ,	
395 F.3d 1364 (Fed. Cir. 2005).....	10
<i>Optical Disc. Corp. v. Del Mar Avionics</i> ,	
208 F.3d 1324 (Fed. Cir. 2000).....	11
<i>Pace v. Bogalusa City School Bd.</i> ,	
403 F.3d 272, 291 (5th Cir. 2005) .....	12
<i>Phillips v. AWH Corp.</i> ,	
415 F.3d 1303 (Fed. Cir. 2005) (en banc).....	10
<i>Recoveredge L.P. v. Pentecost</i> ,	
44 F.3d 1284 (5th Cir. 1995) .....	12

**TABLE OF AUTHORITIES (cont'd)**

	<b><u>Page(s)</u></b>
<i>Rockwell Corp. v. United States</i> , 147 F.3d 1358 (Fed. Cir. 1998).....	9
<i>Teleflex, Inc. v. Ficosa N. Am. Corp.</i> , 299 F.3d 1313 (Fed. Cir. 2002).....	10
<i>Tex. Digital Sys. v. Telegenix Inc.</i> , 308 F.3d 1193 (Fed. Cir. 2002).....	10, 11
<i>TI Group Auto. Sys. (N. Am.), Inc. v. VDON. Am., L.L.C.</i> , 375 F.3d 1126, 1135 (Fed. Cir. 2004).....	13
<i>U.S. Surgical Corp. v. Ethicon, Inc.</i> , 103 F.3d 1554, 1568 (Fed. Cir. 1997).....	11, 12
<i>Young Dental Mfg. Co., Inc. v. Q3 Special Prods., Inc.</i> , 112 F.3d 1137 (Fed.Cir. 1997).....	11
 <b><u>Federal Statutes</u></b>	
35 U.S.C. § 112 ¶ 6.....	12, 16

# 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.