

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
BALTIMORE DIVISION**

**PAICE LLC and THE ABELL FOUNDATION,
INC.,**

Plaintiffs,

v.

**HYUNDAI MOTOR COMPANY,
HYUNDAI MOTOR AMERICA, KIA
MOTORS CORPORATION, and KIA
MOTORS AMERICA, INC.**

Defendants.

C. A. No. WDQ-12-499

**PLAINTIFFS PAICE LLC AND THE ABELL FOUNDATION, INC.'S
RESPONSIVE BRIEF ON CLAIM CONSTRUCTION**

TABLE OF CONTENTS

Page

I. LEGAL STANDARDS OF CLAIM INTERPRETATION 1

 A. The Court May Adopt Plain and Ordinary Meaning For Disputed Terms 1

 B. Claims Are Not Limited to a Preferred Embodiment 2

II. RESPONSE TO DEFENDANTS’ INTERPRETATION OF DISPUTED CLAIM TERMS 3

 A. “Road Load” is “the instantaneous torque required for propulsion of the vehicle, which may be positive or negative in value.” 3

 1. “Road Load” does not include the Defendants’ additional limitation “to maintain a given speed” 4

 2. “Road Load” Measures Instantaneous Torque 6

 3. Plaintiffs’ Construction is Consistent With Two Prior Court Decisions 9

 B. “Motor” 10

 1. “Motor” should be given its plain and ordinary meaning..... 10

 2. Defendants’ Argument Regarding “Transmission” Is a Red-Herring 11

 3. Defendants Misstate the Law Regarding Claim Scope..... 14

 4. Defendants Misconstrue “Variable-Ratio Transmission”..... 16

 5. Defendants’ Proposed Construction for “Motor” Is Incorrect..... 17

 C. “Setpoint” is “a definite, but potentially variable value at which a transition between operating modes may occur.” 18

 1. Defendants’ Constructions Merely Parrot the Claim Language 19

 2. Plaintiffs’ Construction is Consistent With A Prior Court Decision 20

 D. “wherein SP is a setpoint expressed as a predetermined percentage of MTO” 20

 E. “road load (RL) and said setpoint SP, both expressed as percentages of the maximum torque output of the engine when normally-aspirated (MTO)” 21

 F. “a second setpoint (SP2), wherein the SP2 is a larger percentage of the MTO than the SP.” 22

 G. “max torque output (MTO) of said engine” 24

 1. MTO Is Not the Maximum Physical Quality 24

 2. The Court Is Not Required to Construe This Term 25

H.	The Claim Terms are Not Indefinite.....	26
1.	“a setpoint (SP) above which said engine torque is efficiently produced”/ “wherein the engine is operable to efficiently produce torque above the SP”/ “engine is operable to efficiently produce torque above SP”	27
2.	“wherein the torque produced by said engine when operated at said setpoint (SP) is substantially less than the maximum torque output (MTO) of said engine.”/ “wherein the SP is substantially less than the MTO”/ “wherein SP is substantially less than MTO”	30
3.	“a rapid increase in the torque to be applied to the wheels of the vehicle as desired by the operator is detected”	31
4.	“wherein a rate of change of torque output of said engine is limited to a threshold value”	33
I.	“operating said internal combustion engine to provide torque to the hybrid vehicle when the torque required to operate the hybrid vehicle is between a setpoint SP and a maximum torque output (MTO) of the engine”	35
J.	“the state of charge of the battery is below a predetermined level”	36
III.	CONCLUSION.....	37

TABLE OF AUTHORITIES

	Page(s)
CASES	
<i>ActiveVideo Networks, Inc. v. Verizon Comm'n, Inc.</i> , 694 F.3d 1312 (Fed. Cir. 2012).....	passim
<i>Acumed LLC v. Stryker Corp.</i> , 483 F.3d 800 (Fed. Cir. 2007).....	15, 18
<i>Barco N.V. v. Tech. Properties Ltd.</i> , 5:08-CV-05398 JF/HRL, 2011 WL 3957390, *2 (N.D. Cal. Sept. 7, 2011)	26
<i>Breville Pty Ltd. v. Storebound LLC</i> , 12-CV-01783-JST, 2013 WL 1758742 (N.D. Cal. Apr. 24, 2013)	26
<i>CCS Fitness, Inc. v. Brunswick Corp.</i> , 288 F.3d 1359 (Fed. Cir. 2002).....	3
<i>Classen Immunotherapies, Inc. v. Biogen Idec</i> , CIV. WDQ-04-2607, 2013 WL 4587522 (D. Md. Aug. 27, 2013)	1
<i>Dealertrack, Inc. v. Huber</i> , 674 F.3d 1315 (Fed. Cir. 2012).....	2
<i>Deere & Co. v. Bush Hog, LLC</i> , 703 F.3d 1349 (Fed. Cir. 2012).....	28, 30
<i>Digital-Vending Servs. Int'l, LLC v. Univ. of Phoenix, Inc.</i> , 672 F.3d 1270 (Fed. Cir. 2012).....	4
<i>Dow Chemical Co. v. United States</i> , 226 F.3d 1334 (Fed. Cir. 2000).....	29
<i>Ecolab, Inc. v. Envirochem, Inc.</i> , 264 F.3d 1358 (Fed. Cir. 2001).....	28
<i>Epistar Corp. v. Int'l Trade Comm'n</i> , 566 F.3d 1321 (Fed. Cir. 2009).....	4
<i>Finjan, Inc. v. Secure Computing Corp.</i> , 626 F.3d 1197 (Fed. Cir. 2010).....	1
<i>Fleming v. Escort, Inc.</i> , CV 09-105-S-BLW, 2011 WL 1542126 (D. Idaho Apr. 21, 2011).....	27

	Page(s)
<i>Innova/Pure Water, Inc. v. Safari Water Filtration Sys.</i> , 381 F.3d 1111 (Fed. Cir. 2004).....	2, 7, 19
<i>JVW Enterprises, Inc. v. Interact Accessories, Inc.</i> , 424 F.3d 1324 (Fed. Cir. 2005).....	2, 29
<i>Kinzenbaw v. Case LLC</i> , 179 Fed. App'x 20 (Fed. Cir. 2006)	28
<i>Markman v. Westview Instruments, Inc.</i> , 52 F.3d 967 (Fed. Cir. 1995).....	2
<i>MBO Laboratories, Inc. v. Becton, Dickinson & Co.</i> , 474 F.3d 1323 (Fed. Cir. 2007).....	11
<i>O2 Micro Int'l Ltd. v. Beyond Innovation Tech. Co., LTD</i> , 521 F.3d 1351 (Fed. Cir. 2008).....	1
<i>O2 Micro Int'l Ltd. v. Monolithic Power Sys., Inc.</i> , 467 F.3d 1355 (Fed. Cir. 2006).....	26, 35
<i>Paice LLC v. Toyota Motor Corp., et al.</i> , No. 2:04-CV-211-DF, Dkt. No. 91 (E.D. Tex. Sep. 28, 2005).....	9
<i>Paice LLC v. Toyota Motor Corp., et al.</i> , No. 2:07-CV-180-DF, Dkt. No. 63 (E.D. Tex. Dec. 5, 2008)	10, 20, 23
<i>Phillips v. AWH Corp.</i> , 415 F.3d 1303 (Fed. Cir. 2005).....	2, 29, 31
<i>Plantronics, Inc. v. Aliph, Inc.</i> , 724 F.3d 1343 (Fed. Cir. 2013).....	4
<i>Praxair, Inc. v. ATMI, Inc.</i> , 543 F.3d 1306 (Fed. Cir. 2008).....	12, 27, 31
<i>Rambus, Inc. v. Infineon Techs. AG</i> , 318 F.3d 1081 (Fed. Cir. 2003).....	12
<i>SanDisk Corp. v. Memorex Prods., Inc.</i> , 415 F.3d 1278 (Fed. Cir. 2005).....	26

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.