

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FORD MOTOR COMPANY
Petitioner,

v.

PAICE LLC & ABELL FOUNDATION, INC.
Patent Owners.

Case IPR2014-00579
Patent 7,104,347

PATENT OWNER'S MOTION TO EXCLUDE

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EXHIBITS

Patent Owner Exhibit Number	Exhibit Description
PAICE Ex. 2101	Arbitration Agreement between Paice LLC and Ford Motor Company
PAICE Ex. 2102	Declaration of Neil Hannemann
PAICE Ex. 2103	Neil Hannemann CV
PAICE Ex. 2104	Masding, Philip Wilson (1988) "Some drive train control problems in hybrid i.c engine/battery electric vehicles," Durham theses, Durham University.
PAICE Ex. 2105	Bosch Handbook, 4 th Edition (excerpts)
PAICE Ex. 2106	Gregory Davis Deposition Transcript (Jan. 13, 2015)
PAICE Ex. 2107	Davis, G. W., Hodges, G. L., and Madeka, F. C., "The Development and Performance of the AMPHIBIAN Hybrid Electric Vehicle," SAE Technical Publication 940337, 1994.
PAICE Ex. 2108	Paice v. Ford, C.A. No. 1:14-cv-00492-WDQ, Complaint (Feb. 19, 2014)
PAICE Ex. 2109	Griffith Hack Report
PAICE Ex. 2110	Declaration in support of motion for <i>Pro Hac Vice</i> of Peter Guarnieri
PAICE Ex. 2111	Transcript of Deposition of Gregory W. Davis, Ph.D.
PAICE Ex. 2112	Bumby, J.R. and I. Forster, "Optimisation and Control of a Hybrid Electric Car," IEEE Proceedings, Vol. 134, Pt. D, No. 6, November 1987
PAICE Ex. 2113	Patent Owner's Notice of Objections to Evidence, IPR2014-00579, April 29, 2015

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I. STATEMENT OF PRECISE RELIEF REQUESTED

Patent Owners Paice LLC & The Abell Foundation, Inc. (collectively “Paice”) move to exclude from evidence Exhibit 1144 (the “Challenged Exhibit”). Paice moves to exclude the Challenged Exhibit as untimely and impermissibly outside the scope of the Petitioner Ford Motor Company’s (“Ford”) reply under 37 C.F.R. § 42.23. Paice also moves to exclude from evidence the testimony in paragraphs 63-65 of Exhibit 1140 (“Challenged Testimony”), on the same grounds. If the Challenged Exhibit and Challenged Testimony are excluded, Paice further moves that the exhibit and testimony be expunged from the record. Paice also respectfully requests that the Board preclude Ford from using the Challenged Exhibits or the Challenged Testimony at any hearing or in any paper in this proceeding.

II. STATEMENT OF MATERIAL FACTS

Ford filed the Challenged Exhibit and the Challenged Testimony with its April 22, 2015 Reply to Patent Owner’s Response. *See* Paper 28.

Paice timely objected to the Challenged Exhibits and the Challenged Testimony on April 29, 2015. *See* Ex. 2113.

Paice objected to the exhibit and testimony as outside the permitted scope of the reply. *See id.* at 2.

III. BACKGROUND

In its petition in this IPR, Ford argued that the Bumby references disclosed the limitation “a battery, for providing current to said motors [said first and second motors] and accepting charging current from at least said second motor” by pointing to the traction motor. The entirety of Ford’s argument is reproduced below:

As illustrated in the figure shown in limitation [1.0] above, the Bumby Project discloses “a battery” that is connected electrically to the electric motor via a corresponding motor controller. (Ex. 1104 at 1.) The Bumby Project discloses that the battery provides current to the motor, for instance, in an “electric mode” where all “propulsion power [is] supplied by the electric traction system.” (Ex. 1105 at 5-Table 2.) The Bumby Project also discloses a “regenerative braking” mode where “during braking the vehicle kinetic energy is returned to the battery, with the traction motor acting as a generator.” (Ex. 1105 at 5; Ex. 1108, Davis ¶¶259-265.)

See Paper 1 at 34-35. What Ford’s petition is completely silent on is that the claim element requires more than a single motor connected to a battery: it clearly requires a battery that provides current to *both* the first and second motor.

Ford relied on their expert Dr. Davis to put forward the argument that it would have been obvious to a person of skill in the art to connect the conventional starter motor disclosed by the Bumby references (which Ford relies on for the “first electric motor”) to the high voltage hybrid battery. See Ex. 1108 at ¶ 263. Dr. Davis however, provided only the purely conclusory argument that it was obvious

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