

**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.: 2-04CV-211 (DF)

PLAINTIFF PAICE LLC'S CLAIM CONSTRUCTION BRIEF

March 8, 2005

Samuel F. Baxter (Bar No. 01938000)
McKOOL SMITH P.C.
505 East Travis Street, Suite 105
Marshall, TX 75670

Of counsel:

Ruffin B. Cordell (Bar No. 04820550)
Ahmed J. Davis
Peter J. Sawert
FISH & RICHARDSON P.C.
1425 K Street, N.W., 11th Floor
Washington, DC 20005

Robert E. Hillman
FISH & RICHARDSON P.C.
225 Franklin Street
Boston, MA 02110

Andrew D. Hirsch, Esquire
PAICE LLC
6830 Elm Street
McLean, VA 22101

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
A. Technological Overview.....	1
B. The Parties	2
C. Legal Background.....	3
II. THE PAICE PATENTS.....	3
A. United States Patent No. 5,343,970	3
B. United States Patent No. 6,209,672	6
C. United States Patent No. 6,554,088	9
III. LEGAL STANDARDS OF CLAIM INTERPRETATION	9
A. Principles of Claim Construction.....	9
B. Construction of Means-Plus-Function Claim Elements	11
IV. PROPOSED INTERPRETATION OF DISPUTED CLAIM TERMS	12
A. '970 Patent	12
1. Claim 1.....	12
a. "Drive torque".....	13
b. "Controllable torque transfer unit"	13
c. "Input shafts"	13
d. "A controller for controlling the operation of . . . and for controlling the relative contributions of . . ."	14
e. "Output member".....	14
2. Claim 2.....	15
a. "Controller means"	15
b. "Operating mode"	15

TABLE OF CONTENTS

	<u>Page</u>
a. "Solid state switching means . . . means for converting . . . [and] means for rectifying"	16
4. Claim 11.....	16
a. "Solid state switching means"	17
5. Claim 32.....	17
a. "Means for performing the following functions responsive to input commands and monitored operation of said vehicle: selecting an appropriate mode of operation . . ."	18
b. "Low speed running" [mode].....	19
c. "Steady state running" [mode].....	19
d. "Acceleration or hill climbing" [mode]	20
e. "Battery charging" [mode].....	20
f. "Braking" [mode].....	20
g. "Engine starting"	20
6. Claim 38.....	21
a. "Solid state switching network".....	21
B. '672 Patent	21
1. Claim 1.....	21
a. "Clutch"	22
b. "Controllable clutch"	23
c. "Directly coupled"	23
2. Claim 2.....	24
a. "Instantaneous road load" / "RL"	24
3. Claim 3.....	25
a. "Monitoring commands provided by the vehicle operator"	25

TABLE OF CONTENTS

	<u>Page</u>
4. Claim 13.....	26
a. “Total torque available at the road wheels from said engine”	26
5. Claim 15.....	26
a. “Operating said controller to control selection of the operational mode of said vehicle between a low-speed mode I, a cruising mode IV, and an acceleration mode V”	27
b. “Monitoring the instantaneous torque requirements required for propulsion of the vehicle (RL)”	28
c. “Operating mode”	28
6. Claim 30.....	28
a. “At least one traction motor being coupled to road wheels of said vehicle”.....	29
b. “A controller for controlling operation . . . and controlling flow”.....	29
c. “Configured as a number of batteries connected by normally-open switching devices, such that said batteries are electrically isolated from one another in the event power is cut off from said switching devices”.....	30
C. ’088 Patent	30
a. “Instantaneous torque demands (RL)”	31
b. “Said microprocessor controls operation...so as to operate said vehicle in a selected one of said operating modes in response to the instantaneous torque demands (RL) of said vehicle”	32
c. “Operating mode”	32
d. “Said selected operating mode being selected such that said engine is operated only in response to a load equal at least to a predetermined minimum value of its maximum torque output”	32

TABLE OF AUTHORITIES

	<u>Page</u>
Cases	
<i>ACTV Inc. v. Walt Disney Co.</i> , 346 F.3d 1082 (Fed. Cir. 2003).....	11
<i>Alza Corp. v. Mylan Lab., Inc.</i> , 391 F.3d 1364 (Fed. Cir. 2004).....	9
<i>C.R. Bard, Inc. v. U.S. Surgical Corp.</i> , 388 F.3d 855 (Fed. Cir. 2004).....	11
<i>Gemstar-TV Guide Int'l, Inc. v. ITC</i> , 383 F.3d 1352, 1364 (Fed. Cir. 2004).....	10
<i>Irdeto Access, Inc. v. EchoStar Satellite Corp.</i> , 383 F.3d 1295 (Fed. Cir. 2004).....	10
<i>J.T. Eaton & Co. v. Atl. Paste & Glue Co.</i> , 106 F.3d 1563 (Fed. Cir. 1997)	10
<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).....	11
<i>Markman v. Westview Instruments, Inc.</i> , 52 F.3d 967, 979 (Fed. Cir. 1995).....	9
<i>Merck & Co., Inc. v. Teva Pharm. USA, Inc.</i> , 395 F.3d 1364 (Fed. Cir. 2005).....	9
<i>Rockwell Int'l Corp. v. United States</i> , 147 F.3d 1358, 1362 (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, 1202 (Fed. Cir. 2002).....	9
<i>TI Group Auto. Sys. (N. Am.), Inc. v. VDO N. Am., L.L.C.</i> , 375 F.3d 1126, 1135 (Fed. Cir. 2004).....	11, 16, 17
<i>Vitronics Corp. v. Conceptronic, Inc.</i> , 90 F.3d 1576 (Fed. Cir. 1996).....	9

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.