

Case IPR2014-01121
Patent 7,626,349

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

**Zhongshan Broad Ocean Motor Co.,
Ltd.; Broad Ocean Motor LLC; and
Broad Ocean Technologies, LLC**

Petitioners

v.

Nidec Motor Corporation

Patent Owner

Case IPR2014-01121

Patent 7,626,349

DECLARATION OF CHRISTOPHER J. BOKHART

I. QUALIFICATIONS

1. I am a Vice President of CRA,¹ a national consulting firm dedicated to advising clients and counsel in the areas of consulting, business valuation, licensing, and litigation support services. CRA is frequently retained to address accounting, financial, economic, and marketing issues concerning intellectual property.

2. During my tenure at CRA (and its predecessors), I have consulted with clients and counsel on business valuation issues, licensing, technology

¹ My title at CRA International was also Vice President. My title at InteCap was Managing Director.

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commercialization and transfer, and market assessment. I have also supervised and participated in a variety of commercial litigation engagements including breach of contract, product liability, and the determination of lost profits, reasonable royalty, and price erosion damages in intellectual property infringement disputes.

3. Prior to joining CRA, I was one of the founding members of IPC Group, LLC. IPC Group merged with another consulting company in 1999 and was renamed InteCap, Inc. InteCap was acquired by CRA in 2004. The business of IPC Group and InteCap during my tenure there was providing accounting, financial, economic, and marketing consulting services. Before founding IPC Group, I was an Executive Consultant with Peterson & Co. Consulting, which also specialized in the same types of consulting services.

4. I received a Bachelor of Science in Management degree, with an emphasis in Accounting, from Purdue University. I am a Certified Public Accountant in the State of Illinois, as well as a Certified Fraud Examiner.

5. I am a member of several professional organizations, including the following:

- American Institute of Certified Public Accountants;
- Illinois CPA Society;
- Association of Certified Fraud Examiners; and

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- Licensing Executives Society.

6. A copy of my curriculum vitae, as well as a list of cases in which I have testified (both at deposition and at trial), can be found in the attached appendices in Exhibit 2011 at Tabs 1 and 2. CRA is compensated for the time spent by me and my associates at our rates of up to \$645 per hour.

II. ASSIGNMENT

7. I have been retained by Hovey Williams, LLP, counsel for Nidec Motor Corporation (“Nidec”). Specifically, I have been retained to determine whether Nidec’s products incorporating the patented technology were a commercial success, and to evaluate the factors underlying that success. I understand that the commercial success of a product can be used as a secondary consideration in demonstrating the non-obviousness of the underlying patented invention. The following declaration contains my testimony regarding certain aspects of secondary considerations relating to the obviousness of the subject matter claimed in U.S. Patent No. 7,626,349 (“the ‘349 patent”).

8. I may, if requested, offer rebuttal testimony to any evidence or argument advanced by the Petitioner, Zhongshan Broad Ocean Motor Co., Ltd.; Broad Ocean Motor, LLC; and Broad Ocean Technologies, LLC (“Broad Ocean”), regarding

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issues of commercial success. Attached to this declaration are schedules (Tabs 4-9) that summarize and support my opinions.

9. As such, my review, analysis and opinions focus on the following:

- General evaluation of the HVAC market, including revenues earned by Nidec on the sales of the products' incorporating the technology;
- Evaluation of market dynamics, including the market share growth and pricing premium by the products with the patented technology;
- Review of the evidence of the marketing efforts of the products incorporating the technology;

10. In all cases, my review and opinions are based on my expertise in the field of accounting, financial, and economic matters related to intellectual property valuation.

III. INFORMATION RELIED UPON

11. In performing the analysis and developing the opinions reflected in this declaration, I relied upon various documents produced by the parties and publicly available information. A list of the information I have relied upon is attached hereto in Exhibit 2011 at Tab 3 and referenced in the text and attached schedules of this declaration. In addition, I have had discussions with Nidec personnel, specifically Mark Carrier, John Filla and Ryan Wade.

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IV. RELEVANT FACTS AND BACKGROUND

12. I understand that Broad Ocean has petitioned and was granted inter partes review under 35 U.S.C. § 312 and 37 C.F.R. § 42.100 of the ‘349 patent.² The ‘349 patent was issued on December 1, 2009.³ I further understand that the ‘349 patent is alleged to cover the permanent magnet motors using sinewave (sinusoidal) commutation technology including an independent q- and d- axis control scheme sold by Nidec.⁴

1. Parties-in-Suit

13. Nidec is a leading manufacturer of commercial, industrial, and appliance motors and controls.⁵ What is now Nidec was originally established in 1890.⁶ In 2010, Nidec Motor Corporation was formed when Nidec Corporation acquired

² Decision - Institution for Inter Partes Review of U.S. Patent No. 7,626,349, *Zhongshan Broad Ocean Motor Co., Ltd., Broad Ocean Motor LLC, and Broad Ocean Technologies, LLC v. Nidec Motor Corporation*, IPR2014-01121 (1/21/2015).

³ Ex. 1001, U.S. Patent No. 7,626,349.

⁴ Ex. 1001, U.S. Patent No. 7,626,349.

⁵ Ex. 2012, About Us, Nidec (<http://www.nidec-motor.com/About-Us.aspx>).

⁶ Ex. 2013, Company History, Nidec (<http://www.nidec-motor.com/About-Us/Company-History.aspx>).

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