

Filed on behalf of Nidec Motor Corporation

IPR2014-01121

By: Scott R. Brown
Matthew B. Walters
HOVEY WILLIAMS LLP
10801 Mastin Blvd., Suite 1000
Overland Park, Kansas 66210
Tel: (913) 647-9050
Fax: (913) 647-9057

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 No. IPR2014-01121
U.S. Patent No. 7,626,349

PATENT OWNER'S PRELIMINARY RESPONSE

TABLE OF CONTENTS

I. INTRODUCTION1

II. LEGAL STANDARDS FOR INSTITUTION OF *INTER PARTES* REVIEW.....4

III. THE BOARD SHOULD GIVE NO WEIGHT TO ARGUMENT AND EVIDENCE RELATING TO HIDEJI (EXS. 1003, 1005).....5

 A. THE TRANSLATION OF JAPANESE REFERENCE HIDEJI IS UNCERTIFIED, PROHIBITING THE BOARD’S CONSIDERATION OF ANY ARGUMENT OR EVIDENCE RELYING THEREON.5

 B. PETITIONER CANNOT CURE THE DEFECTIVE TRANSLATION BEFORE THE BOARD DECIDES WHETHER TO INSTITUTE *INTER PARTES* REVIEW.6

IV. GROUND 1 FAILS TO DEMONSTRATE A REASONABLE LIKELIHOOD OF PREVAILING WITH RESPECT TO ANY CLAIM, EVEN IF HIDEJI IS CONSIDERED.8

V. GROUND 2 FAILS TO DEMONSTRATE A REASONABLE LIKELIHOOD OF PREVAILING WITH RESPECT TO ANY CLAIM.....11

 A. PRIOR ART HVAC MOTOR DRIVES WERE CONTROLLED USING 6-STEP OR SQUARE WAVE COMMUTATION AND SUFFERED FROM TORQUE COGGING AND TORQUE RIPPLE THAT CREATED UNWANTED VIBRATIONS IN THE DUCT SYSTEM.11

 B. THE PREAMBLE RECITATION COMMON TO ALL CLAIMS OF “A HEATING, VENTILATING AND/OR AIR CONDITIONING (HVAC) SYSTEM” IS LIMITING.....12

 C. THERE IS NO REASONING WITH A RATIONAL UNDERPINNING PROVIDED TO COMBINE BESSLER WITH KOCYBIK.17

VI. CONCLUSION19

TABLE OF AUTHORITIES

Cases

Arthrex, Inc. v. Bonutti Skeletal Innovations, LLC
IPR2013-00631, Paper No. 15 (PTAB Mar. 3, 2014).....7, 8

Bell Commc’ns Research, Inc. v. Vitalink Commc’ns Corp.
55 F.3d 615 (Fed. Cir. 1995)13

Bumble Bee Foods, LLC v. Kowalski
IPR2014-00224, Paper No. 18 (PTAB June 5, 2014)5, 6

Catalina Marketing International, Inc. v. Coolsavings.com, Inc.
289 F.3d 801 (Fed. Cir. 2002)13

Deere & Co. v. Bush Hog, LLC
703 F.3d 1349 (Fed. Cir. 2012) 15, 16

KSR Int’l Co. v. Teleflex, Inc.
550 U.S. 398 (2007)4

Medtronic, Inc. v. Nuvasive, Inc.
IPR2014-00073, Paper No. 11 (PTAB Feb. 28, 2014)7

Net Moneyin, Inc. v. Verisign, Inc.
545 F.3d 1359 (Fed. Cir. 2008)11

St. Jude Medical, Inc. v. Access Closure, Inc.
729 F.3d 1369 (Fed. Cir. 2013)19

Statutes

35 U.S.C. § 102(b)8

35 U.S.C. § 314(a)4

37 C.F.R. § 42.100(b)9

37 C.F.R. § 42.104(c).....7

37 C.F.R. § 42.1084

37 C.F.R. § 42.123(a).....6

37 C.F.R. § 42.63(a).....5

37 C.F.R. § 42.63(b)5, 6

37 C.F.R. § 42.64(b)(1)-(2).....6

Other Authorities

Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756 (Aug. 14, 2012)4

Nidec Motor Corporation (“Nidec”) submits this Preliminary Response in opposition to the Revised Petition for *Inter Partes* Review (the "Petition") filed by Zhongshan Broad Ocean Motor Co., Ltd. ("Broad Ocean") regarding certain claims of U.S. Patent No. 7,626,349 (the "'349 patent"). Broad Ocean's Petition should be denied in its entirety for the reasons set forth below.

I. INTRODUCTION

The invention of the '349 patent relates to improvements in an HVAC electric motor controller that provide a motor that operates with reduced torque cogging and torque ripple resulting in quieter operation, reduced cost, and improved performance in the HVAC system. Each challenged claim requires an HVAC system motor controller that performs sine wave commutation on the motor resulting in smooth motor operations. Sine wave commutation results in reduction in torque cogging and ripple, which in turn reduces vibrations in the HVAC system that can otherwise be amplified through a duct system. The prior art, which uses 6-step commutation, attempted to address these unwanted vibrations and noise by employing mechanical dampers to the rotating parts of the system. Such dampening can now be avoided and the vibrations prevented in the first instance as a result of the invention.

According to Broad Ocean, both of the '349 patent's challenged independent claims and 7 of the dependent claims are anticipated by Japanese Patent

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.