

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

MERCEDES-BENZ USA, LLC  
and MERCEDES-BENZ U.S. INTERNATIONAL, INC.,  
Petitioner,

v.

VELOCITY PATENT, LLC,  
Patent Owner.

---

Case IPR2014-01247  
Patent 5,954,781

---

**CORRECTED PETITION FOR *INTER PARTES* REVIEW OF  
U.S. PATENT NO. 5,954,781  
UNDER 35 U.S.C. §§ 311-319 AND 37 C.F.R. §42.100 *et seq.***

---

Filed on behalf of Petitioner:  
Celine Jimenez Crowson (Reg. No. 40,357)  
Raymond A. Kurz (*pro hac vice* motion to be filed)  
Joseph J. Raffetto (Reg. No. 66,218)  
HOGAN LOVELLS US LLP  
555 13th Street, N.W.  
Washington, D.C. 20004  
Telephone: 202.637.5600

## TABLE OF CONTENTS

<b>I.</b>	<b>INTRODUCTION</b> .....	<b>1</b>
<b>II.</b>	<b>MANDATORY NOTICES</b> .....	<b>3</b>
	A. Real Parties-in-Interest .....	3
	B. Related Matters.....	4
	C. Counsel and Service Information.....	4
<b>III.</b>	<b>NOTICE OF FEES PAID</b> .....	<b>5</b>
<b>IV.</b>	<b>CERTIFICATION OF GROUNDS FOR STANDING</b> .....	<b>5</b>
<b>V.</b>	<b>PRECISE RELIEF REQUESTED</b> .....	<b>5</b>
<b>VI.</b>	<b>RELEVANT INFORMATION CONCERNING THE '781 PATENT</b> ...	<b>6</b>
<b>VII.</b>	<b>CLAIM CONSTRUCTION</b> .....	<b>8</b>
<b>VIII.</b>	<b>DETAILED ANALYSIS OF GROUNDS FOR UNPATENTABILITY OF CLAIMS 31 AND 32</b> .....	<b>10</b>
	A. Ground 1: Claims 31-32 Are Anticipated or Rendered Obvious By European Patent Application Publication No. 0 392 953 (Tresse) (Ex. 1005).....	10
	1. Tresse Anticipates Independent Claim 31 .....	11
	2. Tresse Anticipates or, in the Alternative, Renders Obvious Dependent Claim 32 .....	20
	B. Ground 2: Claims 31-32 Are Anticipated or Rendered Obvious By U.S. Patent No. 5,357,438 (Davidian) (Ex. 1006) .....	27
	1. Davidian Anticipates Independent Claim 31 .....	28
	2. Davidian Renders Obvious Dependent Claim 32.....	37
	C. Ground 3: Claims 31-32 Are Anticipated or Rendered Obvious By PCT Publication No. WO 91/07672 (Montague) (Ex. 1007) .....	43
	1. Montague Anticipates Independent Claim 31 .....	43
	2. Montague Renders Obvious Dependent Claim 32 .....	49
<b>IX.</b>	<b>CONCLUSION</b> .....	<b>55</b>
	<b>APPENDIX A TABLE OF EXHIBITS</b> .....	<b>A-1</b>
	<b>APPENDIX B CERTIFICATE OF SERVICE</b> .....	<b>B-1</b>

## I. INTRODUCTION

The claims of U.S. Patent No. 5,954,781 (the “’781 Patent”) challenged herein—independent claim 31 and dependent claim 32—recite an apparatus that uses a “speed/stopping distance lookup table” to determine whether to issue a warning to a driver of a vehicle. The table provides “the relationship between the speed at which a vehicle is traveling and the distance which the vehicle will require to come to a complete stop if travelling at that speed.” (Ex. 1001, 6:60-66.) The apparatus of claim 31 determines the speed of the vehicle and the distance between the vehicle and an object in front of it (e.g., another vehicle), and then, using the lookup table, issues a “vehicle proximity alarm” if this object is too close. Claim 32 (which depends from claim 31) adds that different speed/stopping distances can be used in the event of adverse weather.

There is nothing new about the alleged invention recited in claims 31 and 32. The inventors themselves conceded that a simple “lookup” table correlating vehicle speed and stopping distance was known. The ’781 Patent states that “[i]t is well known that the faster a vehicle travels, the longer it takes to stop,” and that “[r]oad conditions may also play a role in determining the safe separation distances.” (*Id.*, 1:53-65.) The ’781 Patent adds that the “lookup” tables are merely “based upon National Safety Council guidelines.” (*Id.*, 6:60-62.)

The prior art confirms this. The art is replete with using vehicle speed to determine a safe stopping distance, and then issuing a warning to a driver if her vehicle is closer than that distance. The following references, which are detailed in this Petition, are examples of such art: (1) European Patent Application Publication No. 0 392 953 (“**Tresse**”) (Ex. 1005); (2) U.S. Patent No. 5,357,438 (“**Davidian**”) (Ex. 1006); and (3) PCT Publication No. WO 91/07672 (“**Montague**”) (Ex. 1007). Davidian granted as a patent in 1994, before the ’781 Patent was even filed, and Montague and Tresse claim priority to patent applications even before that, in the 1980s.

Tresse, Davidian, and Montague were not considered during the prosecution of the ’781 Patent. Each reference discloses a vehicle proximity warning system that uses a “lookup” table in determining whether to issue a warning:

- **Tresse:** Ex. 1005, 3:30-32 (“The unit compares, as a priority, for a measured speed  $V$ , the value  $D$  of the distance measured with a reference distance  $D_r$  obtained from a reference table and considered to be a minimum safe distance.”);
- **Davidian:** Ex. 1006, 9:20-27 (“Computer module 90 also includes information about the vehicle braking distances as a function of speed. This is preferably in the form of a look-up table...”); and

- **Montague:** Ex. 1007, 17:23-18:4 (“[T]he comparison between the vehicle speed and the distance from the source transmitter is effected... using look up tables. The look up table contains a series of associated threshold values. If the comparison between the instantaneous vehicle speed and the determined distance between the source transmitter and the vehicle indicates that the instantaneous distance is less than the threshold required for that speed a visual and/or audible warning is given...”).

Moreover, as to claim 32, each reference contemplates using a different “safe” stopping distance in the event of adverse weather, such as rain. (Ex. 1005 (Tresse), 6:2-3, 7:26-30; Ex. 1006 (Davidian), 8:58-9:27; Ex. 1007 (Montague), 14:20-15:4.) For these reasons, and as detailed below, claims 31 and 32 of the ’781 Patent should be cancelled.

## **II. MANDATORY NOTICES**

### **A. Real Parties-in-Interest**

Mercedes-Benz USA, LLC, a Delaware limited liability company with its principal place of business located at 1 Mercedes Drive, Montvale, New Jersey 07645, and Mercedes-Benz U.S. International, Inc., an Alabama corporation with its principal place of business located at 1 Mercedes Drive, Vance, Alabama 35490, are real parties-in-interest (together, “**Mercedes**” or “**Petitioner**”).

# 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.