EXHIBIT 1012

ORIGINAL TRANSCRIPT OF BOARD TELEPHONE

CONFERENCE HEARING (JANUARY 12, 2016)

TRW Automotive U.S. LLC: EXHIBIT 1012
PETITION FOR *INTER PARTES* REVIEW
OF U.S. PATENT NUMBER 8,599,001
IPR2015-00436

1 UNITED STATES PATENT AND TRADEMARK OFFICE

2 _____

3 BEFORE THE PATENT TRIAL AND APPEAL BOARD

4 _____

5 TRW AUTOMOTIVE U.S. LLC,
Petitioner,
6 v.

7 MAGNA ELECTRONICS, INC.
Patent Owner.
8 _____

9 Case IPR2015-00436, IPR2015-00437, IPR2015-00438,
and IPR2015-00439
10 Patent 8,599,001 B2 1
_____

11
BEFORE JUSTIN T. ARBES, BART A. GERSTENBLITH, and
12 FRANCES L. IPPOLITO
_____

13

14 The telephone conference was heard before
the Administrative Patent Judges, Justin T. Arbes,
15 Bart A. Gerstenblith, and Frances L. Ippolito, on
January 12, 2016, at 2:31 p.m., before Jennifer
16 Windham, Certified Shorthand Reporter and Notary
Public within Colorado.
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Patent 8,599,001 B2 1

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The telephone conference was heard before the Administrative Patent Judges, Justin T. Arbes, Bart A. Gerstenblith, and Frances L. Ippolito, on January 12, 2016, at 2:31 p.m., before Jennifer Windham, Certified Shorthand Reporter and Notary Public within Colorado.

A P P E A R A N C E S

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WHEREUPON, the following proceedings were Trademark Office.

* * * * *

JUDGE ARBES: This is Judge Arbes, and I'm here with Judges Gerstenblith and Ippolito. This is a conference call in IPR2015-436. Do we have counsel for petitioner on the line?

MR. TREMBATH: Yes. Jon Trembath and Doug Link.

JUDGE ARBES: And counsel for patent owner?

MR. YONAN: Yes, Your Honor. Danny Yonan with Mark Consilvio.

JUDGE ARBES: And I understand we have a court reporter on the line.

THE REPORTER: Yes. This is Jennifer Windham. I'm the court reporter.

JUDGE ARBES: Thank you. Just let us know if you can't hear anything.

The conference call today, I believe, was requested by petitioner to discuss a discovery issue. So counsel for petitioner, would you like to go first and explain what you're requesting?

MR. TREMBATH: Generally speaking, what

we're looking for is information that rebuts stuff that Magna has said. For example, Magna has represented -- I apologize for my voice -- the VVL imputer may not work looking forward.

The VVL imputer was a product made by a company, VLSI Vision, and a predecessor to Magna called Donnelly, used that, and it's referenced in the patent, in fact. Magna represents, well, it may not work looking forward. And they also represent that one of the prior art references that we'd like to combine with Vellacott to say the algorithms are likely outside of Vellacott's capabilities.

Their expert has suggested that documentation about the VVL imputer and the VLSI product would have been conveyed to Donnelly, Magna's predecessor. So it seems like the documents ought to be there, based on what their expert has said.

Magna's response is, well, Magna Electronics isn't Donnelly and never was -- never had Donnelly's records like this. But in the patent owner's response, page 88, Magna says Vellacott is not a prior art disclosure because it's a disclosure of the patent owner. So that line doesn't run straight.

It seems like -- well, Donnelly was purchased by some Magna entity and was rolled into

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1 some Magna entity, whether or not it is the specific
2 Magna Electronics, I have no idea of knowing. I know
3 what Magna had said, and that it is a disclosure of --
4 Vellacott was a disclosure of the patent owner, which
5 would suggest that maybe Magna Electronics is the
6 successor.
7 JUDGE ARBES: Counsel, can I ask a couple
8 of questions. One, you're pointing to two statements
9 that the patent owner has made. You believe there may
10 be inconsistent information out there. And you said
11 the first was that the VVL imputer may not work. Can
12 you point me to where that is in the patent owner's
13 response where they make that argument.
14 MR. TREMBATH: It's a fairly consistent
15 argument. I'll find you some point cites to that. I
16 assume you'll want them for the algorithms -- it may
17 not work outside of Vellacott's capabilities. Some of
18 it may have come from their expert's deposition as
19 well. Doug is looking on his computer right now to
20 find you some cites.
21 JUDGE ARBES: And while you're looking
22 for that, I take it your position is that the patent
23 owner must have inconsistent information -- or
24 information that is inconsistent with positions
25 they've taken -- these two positions they've taken in

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1 their response?
2 MR. TREMBATH: Correct.
3 JUDGE ARBES: Okay. How do we know that?
4 MR. TREMBATH: Well, the VVL imputer may
5 not work looking forward. In the specification
6 itself, it suggests that what's disclosed in the
7 specification works forward and rearward. There's no
8 distinction.
9 And the underlying device is the VLSI
10 camera. That's what they say is something -- that's
11 what they disclosed. This is this patent owner's
12 response. Patent owner's response, page 28, it
13 states, "A person of ordinary skill in the art would
14 have had no way to know if an attempt to implement
15 Kenue's algorithms on the VVL imputer would likely
16 result in success."
17 JUDGE ARBES: So I understand that the
18 parties obviously have a dispute as to whether the VVL
19 imputer would work, whether a person of ordinary skill
20 in the art would have known a way to implement any of
21 these algorithms on the VVL imputer. That seems to be
22 a dispute of the parties.
23 But how do we know that the patent owner
24 has information inconsistent with the positions that
25 they've taken. They've taken this position here, but

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1 you say they have inconsistent information. How do we
2 know that?
3 MR. TREMBATH: I'm going to let Doug
4 answer that, Doug Link.
5 MR. LINK: Well, we have -- in Vellacott
6 we have a statement saying that Donnelly Corporation
7 utilized the imputer to develop a commercial product
8 in a rearward facing embodiment. That's clearly shown
9 in the sealed trials portion. I believe it's on page
10 114 of the actual document of Vellacott.
11 We also have specific evidence showing
12 that Kenneth Schofield and Mark Larson, the two
13 inventors of the '001 patent, were heavily involved in
14 developing a product that Donnelly Corporation made
15 that was the rearward facing anti-glare embodiment.
16 That's actually the first half, or more than the first
17 half of the '001 patent is a rearward facing
18 embodiment.
19 Then all of a sudden, we have no
20 documentation whatsoever that was ever supplied to the
21 USPTO during prosecution of the '001 patent of the
22 imputer, either its tech manuals, nothing out there.
23 We've given to the patent owner some
24 documents that are external papers that site to
25 imputer user manuals and reference guides describing

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1 the algorithms, but we can't find those online
2 anywhere.
3 The thing about that is, when we took a
4 deposition of Magna's expert, he made statements
5 saying that during development of a product, you would
6 have to rely upon technical datasheets or user manuals
7 or some other description of the commercial product
8 that you were implementing into a vision system.
9 But we know at some point Donnelly was in
10 possession of technical datasheets documents related
11 to the imputer that's based on both Vellacott and
12 Magna's own experts.
13 JUDGE ARBES: But, again, Counsel, as I
14 understand it, you're requesting us to compel the
15 patent owner to provide the inconsistent information
16 under 4251?
17 MR. LINK: We're not just requesting
18 documents. We requested depositions of the inventors,
19 and they refused that as well.
20 JUDGE ARBES: Okay. Let's take those one
21 at a time. Well, let me ask this: What exactly are
22 you requesting for discovery?
23 MR. LINK: We requested three subsets of
24 documents and details. One, details and documents
25 surrounding that VLSI Vision Limited imputer and

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1 related imager as described in Vellacott. And that,
2 again, is based on Schofield's -- the inventors,
3 Schofield and Larson's, connection to the rearward
4 facing embodiment, which is also disclosed in the
5 '001.
6 JUDGE ARBES: Documents about this
7 device. Again, I understood from your e-mail that you
8 are saying that the patent owner has inconsistent
9 information. Are you not taking that position
10 anymore?
11 MR. LINK: We are taking.
12 JUDGE ARBES: So you're asking for
13 documents that are inconsistent with positions they've
14 made in their patent owner's response, not just all
15 documents related to this imputer, right?
16 MR. LINK: Right.
17 JUDGE ARBES: Okay. What are the other
18 two?
19 MR. LINK: Another such example is in the
20 patent owner response they state that the VVL's
21 imputer library of function could not be pattern
22 recognition.
23 MR. ARBES: What page of the response is
24 that on?
25 MR. LINK: Page 48.

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1 JUDGE ARBES: Can you point me to the
2 sentence that you're referring to?
3 MR. LINK: The bridge sentence between 48
4 and 49, "Vellacott teaches that the VVL imputer had
5 pre-packaged software related to machine vision
6 functions, including morphological (shape) filters,
7 transforms, correlators, convolvers, image
8 segmentation, frequency filtering, rotation,
9 reflection and logical operators."
10 People of ordinary skill in the art
11 clearly understand that correlators include some sort
12 of pattern recognition. So them making this statement
13 that a correlator, in terms of the VLSI Vision imputer
14 is not a pattern recognition, they either, one, must
15 have knowledge of what is in the imputer manual, and
16 in good faith they have to know that.
17 JUDGE ARBES: I'm sorry, Counsel, to
18 interrupt you, but it appears on pages 48 and 49 of
19 the response that patent owner is making an argument
20 that Vellacott does not teach the particular
21 limitation of claim 28.
22 They're saying that Vellacott teaches
23 that the VVL imputer has prepackaged software that did
24 certain things. None of what is disclosed in
25 Vellacott is pattern recognition algorithms. That may

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1 or may not be true, but how does that show that they
2 have information inconsistent? They're taking a
3 position on what Vellacott discloses. It either does
4 or doesn't. How do we know that they have information
5 inconsistent with the position they're taking?
6 MR. LINK: Because it is known that a
7 correlator is a pattern recognition.
8 JUDGE ARBES: Well, that's not the
9 question. The question is what Vellacott discloses,
10 right?
11 MR. LINK: Right, right.
12 JUDGE ARBES: So in your second request,
13 what exactly -- what information are you requesting?
14 MR. LINK: The second request was related
15 to the deposition of the inventors, Schofield and
16 Larson, and the information gleaned to them during the
17 development of the invention claimed in the '001
18 patent, and that was based on what we laid out
19 previously.
20 JUDGE ARBES: And a deposition of the
21 inventors, I take it that's a request for additional
22 discovery?
23 MR. LINK: Yeah. We characterized our
24 letter to them as a request for routine discovery and
25 alternative additional discovery.

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1 JUDGE ARBES: Okay. How would that fall
2 under routine discovery?
3 MR. LINK: They're making statements that
4 they don't know what the imputer did or does. And we
5 have, via the testimony of their expert, during the
6 deposition that was taken, their expert testified that
7 they must have garnished information and documents
8 related to the imputer in order to develop a product
9 surrounding that imputer.
10 Vellacott merely says that Donnelly
11 Corporation developed a product using the imputer, and
12 that product relates directly to what is disclosed in
13 the first half of the '001 patent.
14 JUDGE ARBES: And are you referring to
15 the two named inventors or the patent owner of the
16 entity?
17 MR. LINK: The two named inventors. We
18 requested a deposition of them.
19 JUDGE ARBES: I'd like to hear from
20 patent owner, but let's cover all of the requests
21 first. What is the third request that you mentioned?
22 MR. LINK: The third request was related
23 to publication and printed -- and public availability
24 of Vellacott itself. As discussed on page 88, the
25 patent owner admits that Vellacott was a disclosure by

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