

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ZHONGSHAN BROAD OCEAN MOTOR CO., LTD.;  
BROAD OCEAN MOTOR LLC; and  
BROAD OCEAN TECHNOLOGIES, LLC

Petitioners

v.

NIDEC MOTOR CORPORATION

Patent Owner

U.S. Patent No. 7,626,349

Issue Date: December 1, 2009

Title: LOW NOISE HEATING, VENTILATING AND/OR  
AIR CONDITIONING (HVAC) SYSTEMS

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**MOTION FOR JOINDER TO RELATED  
INSTITUTED *INTER PARTES* REVIEW  
(37 C.F.R. §42.122(b))**

Case No. IPR2015-00762

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## I. STATEMENT OF RELIEF REQUESTED

Pursuant to 35 U.S.C. §315(c) and 37 C.F.R. §42.122(b), Zhongshan Broad Ocean Motor Co., Ltd., Broad Ocean Motor LLC, and Broad Ocean Technologies, LLC (collectively, “Broad Ocean” or “Petitioner”) hereby moves to have its Second Petition for *inter partes* review of claims 1-3, 8-9, 12, 16, and 19 of U.S. Patent No. 7,626,349 (“Second ’349 Petition”), filed contemporaneously herewith, joined with the *inter partes* review, *Zhongshan Broad Ocean Motor Co., Ltd. et al. v. Nidec Motor Corp.*, Case No. IPR2014-01121, which was instituted on January 21, 2015.

## II. STATEMENT OF MATERIAL FACTS

1. On September 25, 2013, Patent Owner Nidec Motor Corporation (“Nidec” or “Patent Owner”), filed a presently copending lawsuit against Broad Ocean involving the ‘349 patent, *Nidec Motor Corporation v. Broad Ocean Motor, LLC et al.*, Civil Action No. 4:13-cv-01895-JCH (E.D. Mo.) (the “Litigation”). The Litigation is currently stayed, and the Court has ordered the parties to submit a report by April 2, 2015 on the status of the instituted *inter partes* trials for *Zhongshan Broad Ocean v. Nidec Motor*, IPR2014-01121 and *Zhongshan Broad Ocean v. Nidec Motor*, IPR2014-01122.

2. On July 3, 2014, Broad Ocean filed its original petition seeking an *inter partes* review of claims 1-3, 8-9, 12, 16 and 19 of the ‘349 patent. Ground

No. 1 of the original petition sought the invalidation of claims 1-3, 8-9, 12, 16 and 19 under 35 U.S.C. §102(b) based on Hideji Japanese Patent Publication JP 2003-348885 (“Hideji”). Ground No. 2 of the original petition sought the invalidation of the same claims 1-3, 8-9, 12, 16 and 19 under 35 U.S.C. §103 based on the Bessler and Kocybik references. See *Zhongshan Broad Ocean v. Nidec Motor*, IPR2014-01121, Paper No. 1 (Petition) at pp. 3-4.

3. With its original petition, Broad Ocean filed an English translation of Hideji, but omitted an affidavit attesting to the accuracy of that translation. See *Zhongshan Broad Ocean v. Nidec Motor*, IPR2014-01121, Exhibits 1003-1005.

4. In its Preliminary Response to the original petition, the Patent Owner Nidec requested that Hideji be stricken from consideration by the Board for failing to comply with 37 C.F.R. §42.63(b), but nevertheless addressed the merits of Ground No. 1. See *Zhongshan Broad Ocean v. Nidec Motor*, IPR2014-01121, Paper No. 14 (Preliminary Response) at pp. 5-11.

5. After the service of the Patent Owner’s Preliminary Response, during a telephonic conference with the Board, Petitioner Broad Ocean explained that Patent Owner’s request to strike Hideji was untimely under 37 C.F.R. §42.64(b)(1), but nevertheless sought to file an attesting affidavit as supplemental evidence under 37 C.F.R. §42.64(b)(2). See *Zhongshan Broad Ocean v. Nidec Motor*, IPR2014-01121, Paper No. 22 (Rehearing Request) at pp. 2-3. Instead, the

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