UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD
FORD MOTOR COMPANY Petitioner
V.
PAICE LLC & THE ABELL FOUNDATION, INC. Patent Owner
Case IPR2015-00792 Patent 8,214,097

PATENT OWNER'S RESPONSE TO PETITION



TABLE OF CONTENTS

I.	INTR	RODUCTION	1	
II.	THE '097 PATENT			
	A.	Background of the '097 Patent	2	
	B.	Claim Construction	6	
		1. "setpoint (SP)"	6	
		2. The Challenged Claims Require a Comparison of Road Load Torque Requirements to Setpoint and MTO		
		3. "abnormal and transient conditions"	2	
III.	ARG	UMENT1	3	
	A.	Ford's Conclusory Petition is Deficient Under 35 U.S.C. § 103(a)1	3	
	В.	Ford Is Estopped from Maintaining its Challenge to Claims 30, 32, and 33, and Will Be Estopped From Maintaining its Challenge to Claims 13, 4, 9, 11, 13, 14, 19, 21, 23, 24, 28, and 38	Ι,	
	C.	Grounds 1 and 2 Should Be Denied—the Prior Art of Record I Disclose Using Torque Requirements or Road Load to Det When to Operate the Engine		
		1. Severinsky Uses Speed to Determine When to Use the Engin 17	e	
		2. The Passages of Severinsky on Which Ford Relies Ar Inapposite—Severinsky Does Not Use Torque Requirements or Roa Load to Determine When to Operate the Engine	d	
	D.	Grounds 1 and 2 Should Be Denied—the Prior Art of Record Fails to Disclose a Setpoint		
		1. Severinsky's Sweet Spot Is Not a Setpoint	1	



		2. Ford's Focus on <i>Output</i> Torques Is Flawed
		3. Severinsky Does Not Disclose the "Abnormal and Transient Conditions" Limitations
	E.	Ford's Reliance on the '097 Patent's Discussion of Severinsky is Flawed and Improper
	F.	Grounds 1 and 2 Should Be Denied—the Prior Art of Record Fails to Disclose Controlling the Engine to Limit a Rate of Increase of Output Forque
		Takaoka's Underpowered Engine is Not a Control Strategy48
		Takaoka Does Not Limit the Rate of Change of Engine OutputForque to Achieve Stoichiometry
		3. If Anything, Takaoka Limits Engine <i>Power</i> , Not Torque51
		4. Ford Fails to Establish a Rationale to Combine Severinsky with Γakaoka
		Ground 2 Should Be Denied—Ford Fails to Establish a Rationale to Combine Severinsky with Yamaguchi and Takaoka54
	Н.	Or. Stein's Opinions Should Be Given Little Weight56
11/	CON	LUSION



TABLE OF AUTHORITIES

	Page(s)
Cases	
In re Abbott Diabetes Care Inc., 696 F.3d 1142 (Fed. Cir. 2012)	8
Bettcher Indus., Inc. v. Bunzl USA, Inc., 661 F.3d 629 (Fed. Cir. 2011)	14
Clearwater Sys. Corp. v. Evapco, Inc. 394 F. App'x 699 (Fed. Cir. 2010)	45
<i>In re Cortright</i> , 165 F.3d 1353 (Fed. Cir. 1999)	8
In re Cuozzo Speed Techs., LLC, 793 F.3d 1268 (Fed. Cir. 2015)	6
Fuji Photo Film Co. v. Int'l Trade Comm'n, 386 F.3d 1095 (Fed. Cir. 2004)	8
Graham v. John Deere Co., 383 U.S. 1 (1966)	14, 15
Innogenetics, N.V. v. Abbott Labs., 512 F.3d 1363 (Fed. Cir. 2008)	53
KSR Int'l Co. v. Teleflex Inc., 550 U.S. 398 (2007)	14
Microsoft Corp. v. Proxyconn, Inc., 789 F.3d 1292 (Fed. Cir. 2015)	passim
<i>In re NTP, Inc.</i> , 654 F.3d 1279 (Fed. Cir. 2011)	8, 12
<i>In re Oelrich</i> , 666 F.2d 578 (CCPA 1981)	15
PharmaStem Therapeutics, Inc. v. Viacell, Inc., 491 F.3d 1342 (Fed. Cir. 2007)	



In re Suitco Surface, Inc., 603 F.3d 1255 (Fed. Cir. 2010)	6
Tempo Lighting Inc. v. Tivoli LLC, 742 F.3d 973 (Fed. Cir. 2014)	41
In re Vaidyanathan, 381 Fed. Appx. 985 (Fed. Cir. 2010)	8
Statutes	
35 U.S.C. § 103	1, 13, 14
35 U.S.C. § 311	1
35 U.S.C. § 315	15
35 U.S.C. § 322	13
Other Authorities	
37 C.F.R. § 42.22	13
37 C.F.R. § 42.100	1, 6, 16
37 C.F.R. § 42.120	1



DOCKET A L A R M

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.

