

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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VOLKSWAGEN GROUP OF AMERICA, INC.

Petitioner

v.

SIGNAL IP, INC.,

Patent Owner

Patent No. 6,012,007

Issue Date: January 4, 2000

Title: OCCUPANT DETECTION METHOD AND  
APPARATUS FOR AIR BAG SYSTEM

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**PETITIONER'S RESPONSE TO THE BOARD'S  
SEPTEMBER 2, 2015 ORDER (PAPER 6)**

Case No. IPR2015-01116

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Petitioner Volkswagen Group of America, Inc. (“VWGoA”) respectfully submits this filing in response to the Board’s September 2, 2015 Order, 37 C.F.R. § 42.5, Conduct of the Proceeding (Paper 6) requesting a submission from both patent owner Signal IP, Inc. (“Signal”) and VWGoA explaining the effect, if any, on this proceeding of the Joint Stipulation for Entry of Partial Final Judgment of Invalidity (“the Joint Stipulation”) agreed to by Patent Owner and Petitioner in an ongoing litigation in the U.S. District Court for the Central District of California. Signal has submitted a copy of the Joint Stipulation as Exhibit 2002.

The district court, in construing the claims of U.S. Patent No. 6,012,007 (“the ’007 patent”), found certain claims challenged by VWGoA in this proceeding to be indefinite under 35 U.S.C. § 112.<sup>1</sup> The parties subsequently “stipulate[d] to entry of a partial final judgment that the following claims are invalid due to indefiniteness under 35 U.S.C. § 112, paragraph 2: ... claims 1, ... 17, ... 19, and 20 of the ’007 patent.” Ex. 2002 at p. 2. As stated in the Joint Stipulation, Signal and VWGoA “reserve all appellate rights, including, but not limited to, the right to

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<sup>1</sup> In its Petition, VWGoA challenged claims 1, 17, and 19 to 21. In its claim construction order (Ex. 1007 and 2001), the district court concluded that claims 1, 17, and 20 are indefinite but that claim 21 is not indefinite. Ex. 1007 and 2001, at pp. 60-63.

appeal the Court’s April 17, 2015 claim construction order [Ex. 1007 and 2001] to the United States Court of Appeals for the Federal Circuit.” Ex. 2002 at pp. 2-3. The Partial Final Judgment of Invalidity (Ex. 3001) is therefore not final, and the Joint Stipulation should have no effect on this *inter partes* review proceeding.

## I. PROCEDURAL HISTORY

Signal filed suit against VWGoA in the U.S. District Court in the Central District of California on April 23, 2014, alleging, for example, infringement of the ’007 patent.<sup>2</sup> *See* Signal litigation, D.I. 1. Signal asserted claims 1, 17, and 19 to 21 of the ’007 patent against VWGoA – the same claims VWGoA has challenged in this proceeding – of which claims 1 and 17 are independent claims, and claims 19, 20, and 21 depend from claim 17.

During claim construction in the Signal litigation, VWGoA argued that certain terms recited in claims 1, 17, and 19 to 21 are indefinite under 35 U.S.C. § 112. In particular, VWGoA asserted that the terms “for a given time,” “for a time,”

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<sup>2</sup> The litigation is captioned *Signal IP, Inc. v. Volkswagen Group of America, Inc., et al.*, Case No. 14-cv-3113-JAK (JEMx) (“the Signal litigation”). On approximately the same date, Signal also filed separate lawsuits in the same district court against several other defendants asserting infringement of the ’007 patent (“the related cases”). *See* Signal litigation, D.I. 11.

and “relative weight parameter” are indefinite. *See* Ex. 1008 (Signal litigation, D.I. 75) at pp. 105-108 (concerning “for a given time” and “for a time”), 112-116 (concerning “relative weight parameter”). On April 17, 2015, the district court issued its claim construction order finding that the terms “for a time” and “for a given time” are not indefinite and do not require construction, and that the term “relative weight parameter” is indefinite. Ex. 1007 and 2001, at pp. 53-56 (concerning “for a time” and “for a given time”), 60-63 (concerning “relative weight parameter”). Regarding the term “relative weight parameter,” the district court found that though it is indefinite in independent claim 17, dependent claim 21 “cure[s] the indefiniteness issue” and is therefore not invalid. *Id.* at n.15.

Signal, VWGoA, and the remaining defendants in the related cases subsequently agreed to and filed the Joint Stipulation with the district court on May 20, 2015. The Joint Stipulation notes that the district court “issued its claim construction order (Docket No. 77) holding, *inter alia*, that ... certain terms in claims 1, 17, and 20 of the '007 patent are indefinite under 35 U.S.C. § 112, paragraph 2.” Ex. 2002 at p. 2. The Joint Stipulation further states:

7. In light of the Court’s claim construction order, [Signal] and [VWGoA] stipulate to entry of a partial final judgment that the following claims are invalid due to indefiniteness under 35 U.S.C. § 112, paragraph 2: ... claims 1, 8, 9, 17, 18, 19, and 20 of the '007 patent.

8. [Signal] and [VWGoA] reserve all appellate rights, including, but not limited to, the right to appeal the

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