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Paper 13
Entered: December 1, 2015

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VOLKSWAGEN GROUP OF AMERICA, INC,
Petitioner,

v.

SIGNAL IP, INC.,
Patent Owner.

Case IPR2015-01116
Patent 6,012,007

Before MEREDITH C. PETRAVICK, JEREMY M. PLENZLER, and JAMES A. TARTAL, *Administrative Patent Judges*.

PLENZLER, *Administrative Patent Judge*.

DECISION
Denying Petitioner's Request for Rehearing
37 C.F.R. § 42.71

I. INTRODUCTION

On October 29, 2015, Volkswagen Group of America, Inc. ("Petitioner") filed a Request for Rehearing (Paper 12, "Req. Reh'g") of our Decision (Paper 11, "Dec.") denying *inter partes* review of Petitioner's challenge to U.S. Patent No. 6,012,007 (Ex. 1001, "the '007 patent"). Specifically, our Decision denied *inter partes* review of Petitioner's challenge to claims 1, 17, and 19–21 based on obviousness over Cashler[1] and Schousek[2]. *See* Dec. 9–10.

Petitioner's Request alleges that the Board misapprehended or overlooked certain matters set forth in the Petition (Paper 2) and in the supporting Declaration of Dr. A. Bruce Buckman (Ex. 1002, "the Buckman Declaration"). Req. Reh'g 1.

II. STANDARD OF REVIEW

Under 37 C.F.R. § 42.71(c), "[w]hen rehearing a decision on petition, a panel will review the decision for an abuse of discretion." Abuse of discretion occurs when a "decision was based on an erroneous conclusion of law or clearly erroneous factual findings, or . . . a clear error of judgment." *PPG Indus. Inc. v. Celanese Polymer Specialties Co.*, 840 F.2d 1565, 1567 (Fed. Cir. 1988) (citations omitted). In its request for rehearing, the dissatisfied party must identify the place in the record where it previously addressed each matter it submits for review. 37 C.F.R. § 42.71(d).

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[1] U.S. Pat. No. 5,732,375, iss. Mar. 24, 1998 (Ex. 1003, "Cashler").
[2] U.S. Pat. No. 5,474,327, iss. Dec. 12, 1995 (Ex. 1004, "Schousek").

III. ANALYSIS

A. Alleged Inconsistencies

Petitioner argues that our Decision in this proceeding is inconsistent with that in IPR2015-01004 ("the '004 IPR") also concerning the '007 patent. Req. Reh'g 2. Petitioner contends that "the Board, in this proceeding, found that Schousek does not disclose 'establishing a lock threshold above the first threshold,' but found, in the '004 IPR, that Schousek does disclose this limitation." *Id.* at 3.

Our Decision noted that, in this proceeding,

> Petitioner does not cite to anything in Schousek teaching "establishing a first threshold" as required by claim 1. Rather . . . Petitioner considers Cashler's discussion of a "high threshold" as teaching "establishing a first threshold," and Schousek's discussion of a "maximum infant seat weight" as teaching "establishing a lock threshold" in claim 1. [Pet.] 20–21, 35–37. It is unclear how these teachings are combined in Petitioner's challenge to provide the "lock threshold above the first threshold" recited in claim 1.

Dec. 8. Petitioner offers no explanation as to how its contentions in this proceeding are the same as those presented by the petitioner in IPR2015-01004. *See* Req. Reh'g 2–3.

Accordingly we are not persuaded of inconsistencies in our Decision.

B. Combination of Cashler and Schousek

Petitioner appears to contend that we should have read the Petition as considering each of Cashler's "low threshold" and "high threshold" as teaching the "first threshold" recited by the claims, rather than just the "high threshold." Req. Reh'g 3–8. For example, Petitioner contends that "[w]ith respect to the 'establishing a first threshold of the relative weight parameter' claim element, the Petition does not merely state that Cashler teaches a 'high' threshold," but also states that "'Cashler teaches ***multiple*** thresholds

of the total calculated weight and using those thresholds in deployment decisions,' namely, the 'low' and 'high' thresholds." *Id.* (citing Pet. 20). Petitioner notes that the citations to paragraphs 12 and 21 of the Buckman Declaration support this position. *Id.* at 6–8 (citing Ex. 1002 ¶¶ 12, 21).

The cited portion of the Petition states that "Cashler teaches a 'low' and a 'high' (*i.e.*, a 'first threshold') threshold" when discussing the "establishing a first threshold" limitation. Pet. 20. In the following paragraph, when discussing the "allowing deployment when the relative weight parameter is above the first threshold" limitation, the Petition again specifically characterizes Cashler's "high threshold" as the "first threshold" recited in the claims, stating that "[i]f the weight is above the high (*i.e.*, the 'first threshold') threshold then deployment is allowed." *Id.* Petitioner attempts to support its new position that Cashler's "low threshold" teaches the claimed "first threshold" by explaining that "[b]ecause the 'high' threshold is necessarily greater than the 'low' threshold, and deployment is allowed when the weight is above the 'high' threshold, it is self-evident that deployment is also allowed when the weight is above the 'low' threshold." *Id.* at 6.

We are not persuaded that the Petition relied on Cashler's "low threshold" as teaching the "first threshold" recited in the claims. Accordingly, we could not have overlooked or misapprehended this argument, as it was not raised in the Petition.

Petitioner additionally appears to contend that we should have read the Petition as considering Schousek as teaching the "first threshold" recited in the claims. *See* Reh'g Req. 7–8. For the reasons noted above, we are not persuaded that Petitioner relied on anything other than Cashler's "high

threshold" as corresponding to this limitation. We additionally note that the Petition's claim chart cites only Cashler for the "establishing a first threshold" limitation. *See* Pet. 35–36.

Petitioner fails to explain persuasively any further alleged error in our Decision. *See id.* at 8–9.

IV. CONCLUSION

For the reasons stated above, Petitioner's request for rehearing is *denied*.

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