IN THE UNITED STATES PATENT TRIAL AND APPEAL BOARD

In re <i>Inter Partes</i> Review of:	
U.S. Patent No. 5,655,365	
Issued: August 12, 1997	
Inventor: David Richard Worth et al.	
Application No. 446,739	
Filed: June 6, 1995	
)	FILED ELECTRONICALLY
For: METHOD OF OPERATING AN)	PER 37 C.F.R. § 42.6(b)(1)
INTERNAL COMBUSTION ENGINE)	

Mail Stop Patent Board

Patent Trial and Appeal Board U.S.P.T.O. P.O. Box 1450 Alexandria, VA 22313-1450

PETITION FOR INTER PARTES REVIEW OF U.S. PATENT NO. 5,655,365



TABLE OF CONTENTS

I.	PRI	ELIMINARY STATEMENT	1
II.	STATEMENT OF PRECISE RELIEF REQUESTED FOR EACH CLAIM CHALLENGED		
	A.	Claims for Which Review is Requested	
	B.	Statutory Grounds of Challenge	3
	C.	Claim Construction	3
III.	TH	E '365 PATENT	9
	A.	Overview of the Disclosure	9
IV.	CLAIMS 1, 2, 5, 9, 10, 12-14, and 18 OF THE '365 PATENT ARE UNPATENTABLE		
	A.	Bernhardt anticipates claims 1, 2, 5, 10, 12, 13, and 18	12
	B.	Bernhardt in combination with Onishi render claim 9 obvious	24
	C.	Bernhardt in combination with Griese render claim 14 obvious	28
	D.	Eichler '791 in combination with Bernhardt render obvious claims 1, 2, 5, 10, 12-14, and 18	31
	E.	Eichler '791 in combination with Bernhardt and Onishi render claim 9 obvious	41
	F.	Onishi anticipates claims 1, 2, and 9	44
	G.	Onishi in combination with Eichler '791 render claim 5 obvious	49
	Н.	Onishi in combination with Griese render claims 10, 13, 14, and 18 obvious.	51
	I.	Onishi in combination with Bernhardt renders claim 12 obvious	56
V.	GR	OUNDS FOR STANDING	57
VI.	MA	NDATORY NOTICES	58



Inter Partes Review United States Patent No. 5,655,365

VII	CON	ICLUSION	60
	C.	Lead and Back-Up Counsel, and Service Information	59
	B.	Related Matters	58
	A.	Real Party-in-Interest	58



TABLE OF AUTHORITIES

	Page(s)
Cases	
Ex Parte Ronald A. Katz Tech. Licensing L.P., No. 2008-005127, 2010 WL 1003878 (B.P.A.I. Mar. 15, 2010)	3-4
In re Aller, 220 F.2d 454, 456, (C.C.P.A. 1955)	27, 43, 50
In re Applied Materials, Inc., 692 F.3d 1289 (Fed. Cir. 2012)	27, 43, 50
In re Peterson, 315 F.3d 1325 (Fed. Cir. 2003)	50
Phillips v. AWH Corp., 415 F.3d 1303 (Fed. Cir. 2005) (en banc)	3-4
Statutes	
35 U.S.C. § 102	passim
35 U.S.C § 103	passim
35 U.S.C. § 112	4
35 U.S.C. § 311	3
35 U.S.C. §§ 311-319	1-4
Regulations	
37 C.F.R. § 42.100 et seq.)	1
37 C.F.R. § 42.15(a)	60



LIST OF EXHIBITS

Petition Exhibit 1001: U.S. Patent No. 5,655,365 to David Richard Worth et al.

("Worth").

Petition Exhibit 1002: Bernhardt, W E., Methods for Fast Catalytic System

Warm-Up During Vehicle Cold Starts, Society of Automotive Engineers, 400 Commonwealth Dr., Warrendale, PA, 15096, USA, 1972. ("Bernhardt").

Petition Exhibit 1003: GB Patent No. 1447791 to Eichler et al. ("Eichler '791").

Petition Exhibit 1004: U.S. Patent No. 3,799,134 to Griese ("Griese")

Petition Exhibit 1005: U.S. Patent No. 3,572,298 to Onishi ("Onishi").

Petition Exhibit 1006: Declaration of Dr. Ron Matthews.

Petition Exhibit 1007: Amended Complaint filed in *Orbital Australia Pty Ltd*.

and Orbital Fluid Technologies, Inc., v. Daimler AG,

Mercedes-Benz USA LLC, Mercedes-Benz US

International Inc., Robert Bosch GMBH, and Robert Bosch LLC, Case No. 3:14-cv-808-REP (E.D.Va.).

Petition Exhibit 1008: Patent Prosecution History of U.S. Patent No. 5,655,365

(U.S. App. Ser. No. 08/446,739).

Petition Exhibit 1009: Orbital's Proposed Claim Constructions filed in *Orbital*

Australia Pty Ltd. and Orbital Fluid Technologies, Inc., v. Daimler AG, Mercedes-Benz USA LLC, Mercedes-Benz US International Inc., Robert Bosch GMBH, and

Robert Bosch LLC, Case No. 3:14-cv-808-REP

(E.D.Va.).

Petition Exhibit 1010: U.S. Patent No. 6,581,572 to Hurley.

Petition Exhibit 1011: United States Patent No. 5,050,551 to Morikawa.



DOCKET

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.

