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IPR2016-00123, Paper No. 21  
IPR2016-00146, Paper No. 21  
IPR2016-00177, Paper No. 21  
February 21, 2017

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.

WEST VIEW RESEARCH, LLC,  
Patent Owner.

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Case IPR2016-00123 (Patent 8,719,037 B2)  
Case IPR2016-00146 (Patent 8,719,038 B1)  
Case IPR2016-00177 (Patent 8,781,839 B1)

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Held: February 7, 2017

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Before MICHAEL R. ZECHER, KEVIN W. CHERRY, and  
JASON J. CHUNG, *Administrative Patent Judges*.

The above-entitled matter came on for hearing on Tuesday,  
February 7, 2017, commencing at 1:01 p.m., at the U.S. Patent  
and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

Case IPR2016-00123 (Patent 8,719,037 B2)  
Case IPR2016-00146 (Patent 8,719,038 B1)  
Case IPR2016-00177 (Patent 8,781,839 B1)

APPEARANCES:

ON BEHALF OF THE PETITIONER:

CLIFFORD A. ULRICH, ESQUIRE  
Andrews, Kurth, Kenyon, LLP  
One Broadway  
New York, New York 10004-1007

and

CHARLES HAWKINS, ESQUIRE  
Volkswagen Group of America, Inc.

ON BEHALF OF PATENT OWNER:

(No counsel present.)

Case IPR2016-00123 (Patent 8,719,037 B2)  
Case IPR2016-00146 (Patent 8,719,038 B1)  
Case IPR2016-00177 (Patent 8,781,839 B1)

1 P R O C E E D I N G S

2 - - - - -

3 JUDGE ZECHER: We are on the record. This is an  
4 oral argument for Cases IPR2016-00123, 00146 and 00177.  
5 Today we have a unique oral argument. We just have the  
6 petitioner here with us.

7 I wanted to get a few things on the record given that we  
8 did have a call yesterday and kind of briefly discussed this, but  
9 one of the concerns that the panel had was a potential appearance  
10 of an improper *ex parte* communication. I believe we pointed the  
11 attorneys of both petitioner and patent owner to the trial practice  
12 guide, which clearly indicates that the prohibition against *ex parte*  
13 communications does not come into play in this context where  
14 one party, the patent owner, chooses not to participate in the  
15 hearing. We did receive an e-mail from the patent owner last  
16 night, as we instructed them to send to us, that indicated they  
17 were waiving their right to participate in this hearing.

18 So now that that's made of record, based on our oral  
19 argument order that we revised, petitioner is going to have  
20 45 minutes to discuss these three cases. I'm just going to start the  
21 timer at 45 minutes. You can handle them how you see fit and  
22 we'll go from there. So petitioner, when you come up, can you  
23 please introduce yourself for the record.

24 MR. ULRICH: Cliff Ulrich from Andrews Kurth  
25 Kenyon for petitioner, Volkswagen Group of America, Inc. I

Case IPR2016-00123 (Patent 8,719,037 B2)

Case IPR2016-00146 (Patent 8,719,038 B1)

Case IPR2016-00177 (Patent 8,781,839 B1)

1 have copies of our demonstratives that we filed, if I can give you  
2 copies if you would like.

3 JUDGE ZECHER: Absolutely.

4 MR. ULRICH: May I?

5 JUDGE ZECHER: Please approach.

6 MR. ULRICH: So the way I would like to proceed is  
7 first on IPR2016-00123 which is patent number 8,719,037, then  
8 move on to IPR2016-00177 which is patent number 8,781,839,  
9 then finally IPR2016-00146 which is U.S. patent number  
10 8,719,038.

11 So all three patents belong to the same patent family  
12 and claim priority back to June of 1999. The specifications are  
13 basically the same. There are some differences in some recent  
14 abstracts, some typographical corrections, but by and large they  
15 are the same. And all three more or less relate to transportation  
16 devices that include functionalities such as network  
17 communication, voice recognition and also some display features  
18 as well.

19 As described in all of these patents, the hardware  
20 features are conventional, the software features are conventional  
21 and all the functionality is basically conventional.

22 So our IPRs, petitions, we included a declaration by our  
23 expert, Scott Andrews, who is a EE, BS and MS, 35 years  
24 experience in automotive technology. The petitions, of course,  
25 describe scope and content of the prior art, explain why all of the

Case IPR2016-00123 (Patent 8,719,037 B2)

Case IPR2016-00146 (Patent 8,719,038 B1)

Case IPR2016-00177 (Patent 8,781,839 B1)

1 challenged claims are obvious. And Mr. Andrews also describes  
2 the scope and content of that prior art, also explains why the  
3 claims are obvious in light of that prior art.

4 Now, in the institution decision the Board sided with  
5 Volkswagen Group of America on basically all of the issues  
6 except for one claim construction issue. And that's the  
7 construction of display device means, the '037 patent. We, in our  
8 petition, said that this was a means-plus-function claim. The  
9 Board disagreed. But at the end of the day, it's not really an issue  
10 that matters.

11 The only claim construction issue were the  
12 means-plus-function elements of claim 77 of the '037 patent, and  
13 we laid out our structural analysis of those elements in the  
14 petitions. For all of the other claim terms, our petition took the  
15 position that broadest reasonable interpretation, of course,  
16 applies.

17 In response to the institution decisions, West View filed  
18 patent owner responses that only contained attorney argument.  
19 There was no expert testimony. They didn't depose our witness.  
20 So Mr. Andrews' testimony remains unrebutted.

21 The patent owner responses more or less repeat the  
22 arguments that West View made, that the patent owner made in  
23 its preliminary response, as the Board found all of those  
24 arguments to be unpersuasive. And West View's patent owner  
25 responses contain no argument that would compel a different

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