UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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AISIN SEIKI CO., LTD.,
Petitioner

v.

SIGNAL IP, INC.,
Patent Owner

_____

Case IPR 2016-0366

Patent No. 6,012,007

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Title: OCCUPANT DETECTION METHOD AND APPARATUS FOR AIR BAG
SYSTEM

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Request for Rehearing Under 37 C.F.R. § 42.71(d)

TABLE OF CONTENTS

I.   INTRODUCTION

Pursuant to 37 C.F.R. §42.71(d), AISIN SEIKI CO., LTD., ("Petitioner") requests rehearing of the Board's Decision (Paper No. 7, entered June 13, 2016; "Decision"). The Board reviews a request for rehearing for an abuse of discretion, which "occurs when a court misunderstands or misapplied the relevant law or makes clearly erroneous findings of fact." *Renda Marine, Inc. v. U.S.*, 509 F.3d 1372, 1379 (Fed. Cir. 2007). As set forth below, it is respectfully submitted that this Request for Rehearing satisfies the standard.

Specifically, Petitioner requests rehearing because the Board misunderstood how Petitioner was relying on Fu with respect to the proposed grounds 2 and 3. The Decision mirrors a prior Decision in IPR2016-00292 filed by Toyota Motor Corporation and decided just eleven days prior. It appears that the Board may have conflated the analysis between these two different petitions. But the Toyota Petition relied on Fu in a different manner. The Toyota Petition relied on Fu's methodology for determining whether to turn the air bag on or off (IPR2016-00292, ("Toyota Petition") Paper No. 7 and Paper No. 16). The Board denied institution of grounds 2 and 3 of the Toyota Petition based on an allegedly incomplete analysis as to how Fu's air bag determinations could be incorporated into Schousek. Although both the present Petition and the Toyota Petition

1

proposed grounds 2 and 3 based on Schousek and Fu, the rationale for modifying

Schousek in view of Fu in the present Petition is substantially different. The

Petition here merely relies on Fu for its use of a "latch flag" instead of locking in a

"deploy" or "not deploy" decision as taught by Schousek. (Paper No. 1, entered

December 18, 2015; "Petition"). Thus, Petitioner respectfully submits the Board

misunderstood this point and instead inferred that Petitioner intended to rely on the

same rationale employed in the prior Toyota petition.

For the reasons set forth above and described in further detail below, the

Board is respectfully requested to reconsider grounds 2 and 3 in light of Petitioner's

actual proposed combination of Schousek and Fu.

II. GROUNDS 2 AND 3 - POINTS MISAPPREHENDED
A. Summary of Grounds 2 and 3

The reliance on Schousek and Fu in the Petition is summarized as follows.

First, Petitioner relied on Schousek as disclosing the full procedure used to

determine whether an airbag should be "deployed" or "not deployed". Fu was not

relied on for these features. For example, Schousek is relied on as disclosing the

seat sensors, the microprocessor, and the various weight thresholds used to

determine whether to deploy the air bag. (Paper No. 1 at 32-35). The result from

Schousek's determination is that the resulting decision is stored as either "Deploy"

or "Not Deploy". (*Id*. at 31). It should be noted that Ground 1 based on Schousek

was instituted on the basis that the Petitioner has a reasonable likelihood of

succeeding on its challenge to claims 17 and 21. (Paper No. 7 at 11).

Accordingly, the Board's Decision found that Schousek alone teaches the claimed

methodology for determining whether or not to deploy the airbag. (*Id*.).

Fu, on the other hand, is merely relied on for its use of a latch flag (AB=0 or

AB=1) as a manner of storing the decided result. The output in Fu results in two

conditions, the **air bag is on (AB=1)** or the **air bag is off (AB=0)**. Fu discloses

that when "the air bag is off" the "air bag latch is 0" at a block 50. Further, Fu

discloses that when "the air bag is on" the "air bag latch is 1" at blocks 68 and 70.

Ex. 1004 at col. 7, ll. 62-63 and col. 8, ll. 29-32. Accordingly, Fu teaches that it is

known to set a **latch flag (AB=1 or AB=0)** in an algorithm to represent whether an

airbag is in an allowed or inhibited state. Petitioner merely argued that it would

have been obvious to substitute the known latch flag of Fu, which indicates

whether an airbag is on or off, for Schousek's conditions as to whether the airbag is

permitted to deploy or not deploy. (Paper No. 1 at 31).

As noted in the Petition and in the declaration of Dr. Rouhana, one of

ordinary skill in the art would have been motivated to utilize Fu's "air bag latch

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