

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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**TOYOTA MOTOR CORPORATION,  
Petitioner,**

**v.**

**BLITZSAFE TEXAS, LLC,  
Patent Owner**

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**Case IPR2016-00419  
Patent 8,155,342**

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**PETITIONER'S  
REQUEST FOR REHEARING UNDER 37 C.F.R. § 42.71(c)-(d)**

## TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	PRECISE RELIEF REQUESTED.....	5
III.	LEGAL STANDARD.....	5
IV.	BASIS FOR RELIEF REQUESTED .....	6
	A.    The Decision Misapprehended or Overlooked the Cited Portions of Ohmura that Disclose the "Audio Generated by the Portable Device" Claim Feature.....	6
	B.    The Decision Misapprehended or Overlooked the Cited Portions of Ohmura that Disclose the Functions of the Construed "Integration Subsystem".....	10
V.	CONCLUSION.....	14

Pursuant to 37 C.F.R. §42.71(c)-(d), TOYOTA MOTOR CORPORATION ("Petitioner") requests rehearing of the Board's Decision Denying Institution of *Inter Partes* Review entered July 19, 2016 (Paper No. 13) ("Decision"). In the Decision, the Board denied institution of *Inter Partes* Review of U.S. Patent No. 8,155,342 ("the '342 patent") on the seven (7) grounds of invalidity raised by Petitioner based on the prior art U.S. Patent Application Publication No. 2001/0028717 (Ex. 1102) ("Ohmura"). Petitioner respectfully submits that, in its analysis, the Board misapprehended the disclosure of Ohmura as well as citations to Ohmura in both the Petition (Paper No. 1) and its supporting expert Declaration (Ex. 1120) ("Matheson Declaration").

The Decision denies institution for the same reasons as those provided in a previous Decision for a Petition filed by a different party on the '342 patent. However, the instant Petition relies on a distinct, *streaming audio* embodiment described in Ohmura, to which the reasons for denying institution clearly do not apply.

## **I. INTRODUCTION**

On December 30, 2015, Petitioner filed a Petition (Paper No. 1) ("Petition") requesting *Inter Partes* Review of the '342 patent as to claims 49-57, 62-64, 66, 68, 70, 71, 73-80, 94, 95, 97, 99-103, 106, 109-111, 113, 115, and 120 ("the

challenged claims"). In its Petition, Petitioner demonstrated that each of the challenged claims is unpatentable under 35 U.S.C. §103(a) as obvious over Ohmura in combination with various other references. Unlike a previously denied Petition filed by another party (Unified Patents Inc., IPR2016-00118) based on a *file transfer embodiment* of Ohmura, the instant Petition relied on a different embodiment of Ohmura, specifically, the distinct *streaming audio embodiment*. Nonetheless, on July 19, 2016, the Board denied review as to all of the challenged claims for the same two reasons that the earlier *Unified Patents* Petition was denied:

**(1) The "audio generated by the portable device" claim feature:**

"[W]e are not persuaded that Ohmura's CPU 101 of car audio/video system 100, shown in Ohmura's Figure 2, 'instructs the portable device to play the audio file... and receives *audio generated by the portable device*'; and

**(2) The construed "integration subsystem" functions:**

"Petitioner does not account for or direct us to where each of the functions performed by the claimed 'integration subsystem' is found in Ohmura's CPU." Decision at 27; *see also* IPR2015-00118, Decision Denying Institution of *Inter Partes* Review (Paper 19) at 17 and 20.

These reasons for denying institution, however, are based on the embodiment put forth in the *Unified Patents* Petition. Accordingly, it is respectfully submitted that these reasons are based on a misapprehension of the Ohmura reference itself, as well as misapprehension of Petitioner's arguments and citations to Ohmura in the Petition.

With respect to the "audio generated by the portable device" reasoning ((1) above), the Decision is based on the analysis of a particular embodiment disclosed in Ohmura directed to *file transfer*, inapposite to the distinct embodiment directed to *streaming playback* cited by the Petition. As in the prior Decision to deny institution of the *Unified Patents* Petition based on the *file transfer* embodiment, the Decision also faults the CPU 101 of Ohmura because it is programmed "to receive music data ('music file') from portable device 200a or 200b ***for storage in an information storage unit*** of car audio/video system 100." Decision at 27 (emphasis added), citing to Ohmura at 111-112; *see also* IPR2015-00118, Decision Denying Institution of *Inter Partes* Review (Paper 19) at 20. Because the music file is transferred, stored, and only afterwards reproduced by the car audio/video system 100 in this *file transfer* embodiment, the Decision concludes that Ohmura's audio "is *not* generated on portable device 200a or 200b." Decision at 28.

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