Paper 7

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, INC.,
Petitioner,

v.

VELOCITY PATENT LLC,
Patent Owner

Case IPR2017-01723
U.S. Patent 5,954,781

PATENT OWNER VELOCITY PATENT LLC'S PRELIMINARY RESPONSE

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III. CLAIM CONSTRUCTION 6

A. "Said processor subsystem determining, based upon data received from said plurality of sensors, when to activate said fuel overinjection notification circuit" 7

IV. THE PETITION SHOULD BE DENIED ON ALL GROUNDS UNDER 37 C.F.R. § 42.104(b)(3) 9

V. THE PETITION SHOULD BE DENIED FOR GROUND I 15

A. *Westbrook* does not disclose each limitation of the claimed "memory subsystem." 15

1. *Westbrook* does not disclose storing prior levels for any of the recited sensors. 18

2. *Westbrook* does not disclose storing "prior levels" of sensors. 20

3. *Westbrook* does not disclose any embodiment of a memory subsystem storing set points, prior levels, and current levels as arranged in the claims. 23

4. Petitioner failed to present a motivation to combine disparate embodiments of *Westbrook*. 24

5. *Westbrook* teaches away from using smart sensors. 26

B. *Ghitea* does not disclose "determining, based upon data received from said plurality of sensors, when to activate said fuel overinjection notification circuit" as required by claims 1, 7, and 13. 27

C. *Westbrook* does not disclose or render obvious the vehicle proximity alarm elements as arranged in claim 17. 30

1. Petitioner mischaracterized *Westbrook*'s disclosure of the reliability and use of collision avoidance systems with built-in radar. 32

2. *Westbrook* teaches away from using built-in radar systems by disclosing the "major problem" of false reflections. 33

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3. *Westbrook* teaches away from using built-in radar systems by disclosing alternative embodiments that were better candidates for collision avoidance systems. 35

VI. THE PETITION SHOULD BE DENIED FOR GROUND II 37

A. Petitioner failed to show that *Westbrook* discloses or renders obvious the vehicle proximity alarm elements as arranged in claim 60. 37

B. Petitioner does not demonstrate that each and every limitation of claim 60 was disclosed or rendered obvious. 38

1. Petitioner did not present an argument for "said processor subsystem determining whether to activate said vehicle proximity alarm circuit based upon…vehicle speed data received from said road speed sensor." ..39

2. Arguments for 17(i) do not demonstrate that *Westbrook* discloses "said processor subsystem determining whether to activate said vehicle proximity alarm circuit" as claimed in 60(g). 41

C. *Westbrook* does not disclose proximity alarm activation determinations based on data from three sources as claimed. 42

D. *Westbrook* does not disclose or render obvious the "processor subsystem" of 60(g) and 60(l). 43

VII. THE PETITION SHOULD BE DENIED FOR GROUND III 47

A. *Jurgen* does not disclose "present and prior levels for each one of said plurality of sensors" of limitation 1(d). 47

B. *Jurgen* does not disclose each limitation of the "memory subsystem" as arranged in limitation 1(d). 49

C. *Jurgen* does not disclose the "plurality of sensors" as arranged in limitation 1(b). 51

D. *Jurgen* does not disclose the "processor subsystem, coupled to each one of said plurality of sensors" as arranged in limitation 1(c). 51

E. Petitioner did not address each and every limitation of the claimed "processor subsystem." 52

1. *Londt* does not disclose "determining, based on data received from said plurality of sensors, when to activate said fuel overinjection notification circuit." 53

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2. *Londt* does not disclose "determining, based on data received from said plurality of sensors … when to activate said upshift notification circuit." 53

F. Petitioner failed to present a motivation to combine disparate embodiments of *Jurgen*. 54

1. Petitioner did not present any applicable motivation to combine the disparate embodiments of *Jurgen* cited for limitation 1(d). 56

2. Petitioner did not present any applicable motivation to combine the disparate embodiments of *Jurgen* cited for limitation 1(b). 57

3. Petitioner did not present any applicable motivation to combine the disparate embodiments of *Jurgen* cited for limitation 1(c). 58

G. Ground III should be denied because obviousness grounds based on *Jurgen* were previously considered and rejected by the Office twice before. 59

1. The Board should decline to hear Ground III under 35 U.S.C. § 325(d). ..60

2. The Board should decline to hear Ground III under 35 U.S.C. § 314(a). ..62

VIII. CONCLUSION 63

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