

Filed on behalf of: Jaguar Land Rover Limited

Entered: December 19, 2019

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BENTLEY MOTORS LIMITED
and
BENTLEY MOTORS, INC.,
Petitioner,

v.

JAGUAR LAND ROVER LIMITED,
Patent Owner.

Case IPR2019-01502
Patent RE46828

**PATENT OWNER'S SUR-REPLY
IN SUPPORT OF
THE PRELIMINARY RESPONSE**

Exhibit List

Exhibit	Description
2001	Defendants' Preliminary Invalidity Contentions, <i>Jaguar Land Rover Ltd. v. Bentley Motors Ltd.</i> , No. 2:18-CV-320 (E.D. Va. Nov. 5, 2019)
2002	Bob Sorokanich, <i>Wrecked Porsche 959 Sells for \$467,500 at Monterey Auction</i> , Road & Track (Aug. 24, 2018)
2003	Amended Complaint for Patent Infringement, <i>Jaguar Land Rover Ltd. v. Bentley Motors Ltd.</i> , No. 2:18-CV-320 (E.D. Va. Nov. 1, 2018), ECF No. 31 ("Am. Compl.")
2004	David Colman, <i>At Long Last: Federalizing the Porsche 959 Has Been a Long Road. Now, at Least, It Can Be Traversed</i> , Autoweek (Sept. 14, 2003)
2005	Reserved
2006	Reserved
2007	CPI Inflation Calculator, Bureau of Labor Statistics, https://www.bls.gov/cgi-bin/cpicalc.pl
2008	VCARS, <i>Dual Queen's Awards in Diamond Year</i> , AA Cars (Apr. 23, 2008)
2009	Kevin Hepworth, <i>First Drive</i> , Daily Telegraph (Sydney, Austl.) (Oct. 9, 2004) (Exhibit D to Am. Compl., ECF No. 31-4)
2010	<i>Land Rover Wins Two Queen's Awards</i> , The Manufacturer (June 27, 2008) (Exhibit E to Am. Compl., ECF No. 31-5)
2011	Richard Russell, <i>Seize Control of All Terrains</i> , Globe & Mail (May 19, 2005) (Exhibit F to Am. Compl., ECF No. 31-6)
2012	Jan Prins & David Armstrong, <i>Terrain Response</i> , Land Rover Official Magazine (Exhibit G to Am. Compl., ECF No. 31-7)
2013	<i>Land Rover LR3 Wins Prestigious 2005 Motor Trend SUV of the Year</i> , PR Newswire (Oct. 27, 2004) (Exhibit H to Am. Compl., ECF No. 31-8)

Exhibit	Description
2014	David Booth, <i>2007 Range Rover A Masterpiece in the SUV Gallery</i> , Star Phoenix (Feb. 2, 2007) (Exhibit I to Am. Compl., ECF No. 31-9)
2015	John LeBlanc, <i>Nothing in Its Way: The Land Rover LR3 Can Go Anywhere You Want Thanks to the New Terrain Response System</i> , The Gazette (Montreal) (Nov. 15, 2004) (Exhibit K to Am. Compl., ECF No. 31-11)
2016	<i>Terrain Response Wins Henry Ford Award: Land Rover Has Won a Henry Ford Technology Award for Its Patented Terrain Response System</i> , PAGCMS (2005)
2017	Jaguar Land Rover Limited's Opposition to Defendants' Motion to Dismiss, <i>Jaguar Land Rover Ltd. v. Bentley Motors Ltd.</i> , No. 2:18-CV-320 (E.D. Va. Dec. 3, 2018), ECF No. 38
2018	<i>Motor Trend Names 2005 Sport/Utility of the Year Winner</i> , Motor Trend (Oct. 27, 2004)
2019	Arthur St. Antoine, <i>Long-Term Verdict: 2005 Land Rover LR3 HSE</i> , Motor Trend (Oct. 1, 2006)
2020	John Kiewicz, <i>2005 SUV of the Year: Land Rover LR3</i> , Motor Trend (Oct. 28, 2004)
2021	Opinion and Order, <i>Jaguar Land Rover Ltd. v. Bentley Motors Ltd.</i> , No. 2:18-CV-320 (E.D. Va. June 26, 2019), ECF No. 45
2022	<i>The Queen's Awards for Enterprise, Background Note: Business Awards</i> , Department for Business, Innovation and Skills Enterprise Directorate
2023	<i>The Queen's Awards for Enterprise: Innovation, Winner's List</i> (2006-2010)
2024	Rule 16(b) Scheduling Order, <i>Jaguar Land Rover Ltd. v. Bentley Motors Ltd.</i> , No. 2:18-CV-320 (E.D. Va. Sept. 25, 2019), ECF No. 55
2025	U.S. Patent No. 5,366,041 ("Shiraishi")

Exhibit	Description
2026	RM Sotheby's – 1985 Porsche 959 Paris-Dakar, The Porsche 70th Anniversary Auction 2018 (Description of RM Sotheby's Auction Lot No. 196)
2027	RM Sotheby's – 1988 Porsche 959 Sport, Paris 2017 (Description of RM Sotheby's Auction Lot No. 131)
2028	Email from Andrew Kellogg to Brian Murphy Re: Bentley Motors v. Jaguar Land Rover IPR2019-01502 (Dec. 5, 2019)
2029	Email from Jonathan Strang to Robert Colletti Re: IPR2019-01502 and -01539 (Bentley v. JLR) (Dec. 4, 2019)
2030	Order, <i>President & Fellows of Harvard College v. Micron Technology, Inc.</i> , No. 17-1729-LPS-SRF (D. Del. Jan. 8, 2018)

I. Introduction

The POPR demonstrated that Petitioners failed to demonstrate a reasonable likelihood of prevailing and that discretionary denial is appropriate. Petitioners' Reply did not change anything. The Porsche art still fails to teach all of the Base Claim elements, Petitioners still failed to show that the art—the Porsche 959 manual *and* the ATZ articles—are prior-art printed publications, and discretionary denial is still appropriate. POPR 30-42.

With respect to the ATZ articles, Petitioners abandoned their original (albeit conclusory) public-availability argument from the Petition, and impermissibly set forth an entirely new public accessibility theory relying on old, but uncited, evidence. The Board should disregard Petitioners' untimely arguments and deny the Petition, especially given that Petitioners' request to submit new evidence was simply an excuse for a do-over. As for the new evidence itself, Petitioners' have no excuse for their delay and lack of diligence. Further, the belated exhibits had a typographical error, and Petitioners slipped in a fix for that, too, without obtaining Board permission beforehand.

In any event, the Board does not need to address any of these issues. Discretionary denial is wholly appropriate, especially in view of Petitioners' delay and lack of diligence. Petitioners do not contest that they have had the asserted references since September 2017, but delayed filing this IPR until after the Court

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