

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.

IPR2019-01502
Patent RE46,828 E

Before BARRY L. GROSSMAN, KEVIN W. CHERRY, and
BRENT M. DOUGAL, *Administrative Patent Judges*.

CHERRY, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

A. BACKGROUND

Bentley Motors Limited and Bentley Motors, Inc. (“Petitioner”) filed a petition (Paper 1, “Pet.”) to institute an *inter partes* review of claims 21, 24, 30, 32–34, 37, 39, 41–43, 45, and 46 (the “challenged claims”) of U.S. Patent No. RE46,828 E (Ex. 1001, “the ’828 patent”). 35 U.S.C. § 311.

Jaguar Land Rover Limited (“Patent Owner”) timely filed a Preliminary Response. Paper 6 (“Prelim. Resp.”). Pursuant to our authorization, Petitioner filed a Reply to the Preliminary Response (Paper 7, “Reply”) and Patent Owner filed a Sur-Reply (Paper 8, “Sur-Reply”).

Institution of an *inter partes* review is authorized by statute when “the information presented in the petition filed under section 311 and any response filed under section 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a).

Petitioner challenges the patentability of claims as follows:

Claim(s) Challenged	35 U.S.C. §	Reference(s)/Basis
30, 32	103	959 Art ¹
33, 34, 41, 42	103	959 Art, Expedition Guide ² /GB ’580 ³

¹Manfred Bantle & Helmutt Bott, *Der Porsche Typ 959 – Gruppe B – ein besonders Automobil – Teil 1*, AUTOMOBILTECHNISCHE ZEITSCHRIFT, vol. 88, no. 5 (May 1986) (Ex. 1002A, “959 Article Part 1”); Manfred Bantle & Helmutt Bott, *Der Porsche Typ 959 – Gruppe B – ein besonders Automobil – Teil 2*, AUTOMOBILTECHNISCHE ZEITSCHRIFT, vol. 88, no. 6 (June 1986) (Ex. 1002B, “959 Article Part 2”); Manfred Bantle & Helmutt Bott, *Der Porsche Typ 959 – Gruppe B – ein besonders Automobil – Teil 3*, AUTOMOBILTECHNISCHE ZEITSCHRIFT, vol. 88, no. 7/8 (July 1986) (Ex. 1002C, , “959 Article Part 3”); Manfred Bantle & Helmutt Bott, *Der Porsche Typ 959 – Gruppe B – ein besonders Automobil – Teil 4*, AUTOMOBILTECHNISCHE ZEITSCHRIFT, vol. 88, no. 9 (August 1986) (Ex. 1002D, “959 Article Part 4”); Dr. Ing. h.c. F. Porsche AG, Porsche 959 Driver’s Manual (Ex. 1003, “959 Manual”) (collectively, “959 Art”).

² Ford Motor Co., 1997 Ford Expedition Owner’s Guide (Ex. 1007, “Expedition Guide”).

³ GB 2,273,580 A (Ex. 1005, “GB ’580”).

Claim(s) Challenged	35 U.S.C. §	Reference(s)/Basis
37, 39	103	959 Art, Bourdon ⁴
45	103	959 Art, BMW 7-Series Manual ⁵ /GB '580
46	103	959 Art, Gallery ⁶
21, 24, 43	103	959 Art, Hummer Article ⁷

For the reasons expressed below, we determine that Petitioner has not demonstrated a reasonable likelihood of establishing that at least one claim is unpatentable. Accordingly, we do not institute *inter partes* review of the '828 patent.

B. RELATED PROCEEDINGS

The parties identified as a related proceeding the co-pending district court proceeding of *Jaguar Land Rover Limited v. Bentley Motors Limited and Bentley Motors, Inc.*, Civ. No. 2:18-cv-320 (E.D. Va.). Pet. 68; Paper 5, 1. Petitioner identifies a continuation application, U.S. Application S/N 15/949,385 (currently stayed). Pet. 68. Lastly, Patent Owner also identifies currently-pending IPR2019-01539 in which Petitioner also challenges claims of the '828 patent. Paper 5, 1.

⁴ U.S. Patent No. 6,044,318 (Ex. 1006, "Bourdon").

⁵ BMW AG, 2001 7-Series Owner's Manual (Ex. 1008, "BMW 7-Series Manual").

⁶ U.S. Patent No. 5,941,614 (Ex. 1026, "Gallery").

⁷ H2's Premium Powertrain (Ex. 1014E, "Hummer Article").

C. THE '828 PATENT

The '828 patent, entitled “Vehicle Control,” describes and claims “a vehicle control system arranged to control a plurality of vehicle subsystems each of which is operable in a plurality of subsystem configuration modes, wherein the vehicle control system is operable in a plurality of driving modes in each of which it is arranged to select the subsystem configuration modes in a manner suitable for a respective driving surface.” Ex. 1001, code (54), 2:3–9. The Background of the Invention states that, before the invention, “drivers often encounter[ed] a broad range of surfaces and terrains in both on-road and off-road settings,” but prior art control systems did not allow a driver to “provide direct input regarding the surface terrain” to optimize the selection of “appropriate subsystem configuration modes” for different terrains. *Id.* at 1:47–55. The '828 patent contends that the increasingly large number of configuration choices was “complicated and confusing” to all but “very experienced” drivers. *Id.* at 1:36–40. As a result, prior art control systems delivered “less than optimal stability, handling, and safety performance.” *Id.* at 1:55–61. Thus, “there [wa]s a need for an integrated control system” that “provide[d] improved control of the vehicle on a broad range of surfaces.” *Id.* at 1:57–61.

The “Summary of Invention” explains that “the present invention provides a vehicle control system arranged to control a plurality of vehicle subsystems.” *Id.* at 2:3–5. Figure 4 (reproduced below) shows the vehicle control system “controlling the subsystems.” '828 patent 5:29–30.

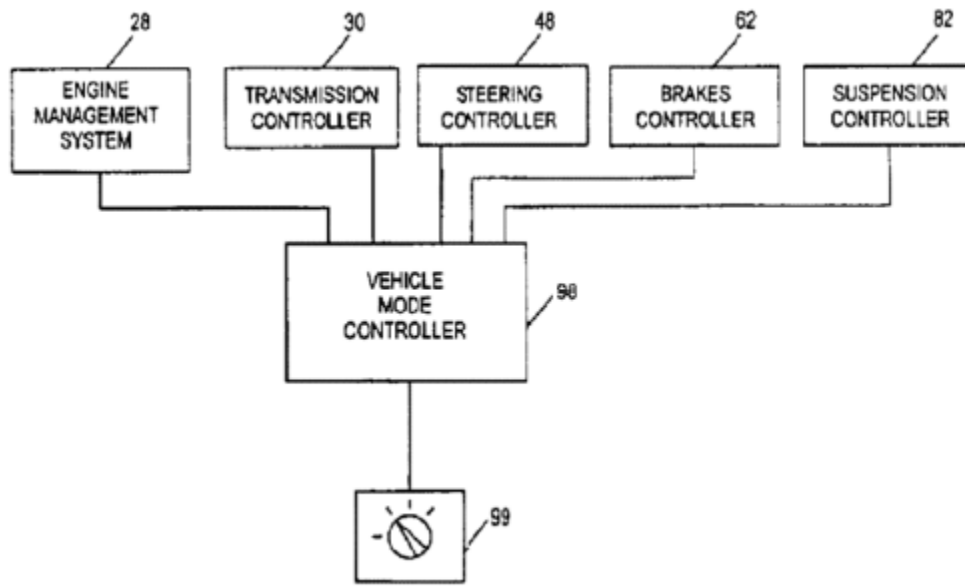


Figure 4 of the '828 patent, which is a diagram, shows the various controllers and subsystems. *Id.* at Fig. 4.

Figure 4 shows driver input device (99), processor based vehicle mode controller for providing the appropriate control commands to each subsystem controller (98), and a plurality of vehicle subsystems, including engine management system 28, transmission controller 30, steering controller 48, brakes controller 62, and suspension controller 82. *Id.* at 9:44–49.

The '828 patent also describes other subsystems. For example, the '828 patent explains that “[p]referably one of the subsystems comprises a differential system operable to provide to a plurality of levels of differential lock.” *Id.* at 2:64–66. “The differential may be a center differential, a front differential or a rear differential.” *Id.* at 3:5-6. The transmission sends drive torque to the center differential. *Id.* at 5:57–60. The center differential then transmits drive torque to the front and rear differentials, and the front and rear differentials transmit the torque to the front and rear wheels of the car. *Id.* at 5:60–62.

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