

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

JAGUAR LAND ROVER LIMITED,

Plaintiff,

v.

**BENTLEY MOTORS LIMITED, and
BENTLEY MOTORS, INC.,**

Defendants.

CASE NO. 2:18-CV-320-MSD-LRL

DEFENDANTS' PRELIMINARY INVALIDITY CONTENTIONS

Plaintiff Jaguar Land Rover Limited (“JLR”) is asserting claims 21, 24, 30, 31, 32, 33, 41, 42, 43, and 46 (the “Asserted Claims”) of U.S. Patent No. RE46,828 (the ’828 patent) against Defendants Bentley Motors Limited and Bentley Motors, Inc. (collectively, “Bentley”) in this litigation. (*See* Plaintiff’s Preliminary Infringement Contentions, dated Oct. 1, 2019).

Pursuant to Paragraph III.B of the Joint Discovery Plan, Bentley, through counsel, provide the following Preliminary Invalidity Contentions to Plaintiff. Bentley contends that each of the Asserted Claims of the ’828 patent is invalid under at least 35 U.S.C. §§ 101, 102, 103, and/or 112.

I. PRELIMINARY STATEMENT

Defendants’ Preliminary Invalidity Contentions are based on the information currently available to and known by Bentley. Bentley reserves the right to amend or supplement these Preliminary Invalidity Contentions as the pre-trial phase of the litigation proceeds, including in view of the claim constructions by the Court, and as additional information may come to light, including information obtained during discovery, prior art searches, and expert investigations,

Jaquar Land Rover Ltd.

analyses or experimentation. Bentley also reserves the right to supplement these Preliminary Invalidity Contentions in reply to Plaintiff's pre-trial submissions, including any supplemental infringement contentions, expert reports, and responses to discovery requests and in response to any ruling issued by the Court.

These Preliminary Invalidity Contentions are provided without prejudice to Defendants' right to introduce expert opinions and demonstratives as expert discovery progresses, and to produce and introduce at trial all evidence, whenever discovered, relating to the proof of currently known and subsequently discovered facts. Accordingly, these Preliminary Invalidity Contentions are subject to modification, amendment, or supplementation as this litigation progresses and additional information is obtained.

Bentley reserves the right to amend, alter, or supplement these Preliminary Invalidity Contentions based on any further investigation, discovery of new prior art or re-evaluation of known prior art, fact or expert discovery, evaluation of the scope and content of any prior art, any claim construction from the Court, any contentions or positions taken by Plaintiffs or their designated experts, or as a result of changes in Plaintiff's contentions and infringement positions.

By providing these Preliminary Invalidity Contentions, Bentley makes no admissions on any issue related to claim construction in this matter. Any statement herein concerning any claim limitation is solely for the purpose of comparison with the prior art and does not constitute an adoption of any of Plaintiff's proposed constructions. By addressing any Asserted Claim term, Defendants do not concede that such terms are definite or otherwise comply with 35 U.S.C. §§ 101 or 112. Defendants expressly reserve the right to propose any claim construction they consider appropriate and/or to contest any claim construction they consider inappropriate and will not be limited by any position arguably set forth in these Preliminary Invalidity Contentions.

Where multiple interpretations of a claim or claim term reasonably exist, Defendants may identify disclosures by certain references in the alternative. Any alternatives should not be considered inappropriate merely because Plaintiff may believe that they are inconsistent with one another.

By providing these contentions, Defendants do not waive any right to introduce at trial any subsequently-discovered evidence or expert opinions related to currently-known facts and to produce and introduce at trial all evidence, whenever discovered, relating to the proof of subsequently-discovered facts. Bentley reserves the right to refer to, conduct discovery with reference to, or offer into evidence at the time of trial, any and all facts, expert opinion testimony, documents and things notwithstanding the written statements in these contentions.

Bentley may also rely on documents, testimony, and things produced in the course of fact and expert discovery, including those that have not yet been produced by Plaintiff, that do not yet exist, or that Defendants have not yet identified or appreciated the significance of in the context of this litigation.

Defendants' identification of certain disclosures for each reference should not be considered exhaustive; rather, Defendants are only required to identify, and therefore have only referred to, exemplary disclosures within each reference. Not every single disclosure present within a reference, expressly or inherently, is discussed in Defendants' analysis of the Asserted Claims. This approach is not a waiver of later asserting any of those disclosures against any Asserted Claim, nor does it preclude Defendants from relying on any non-cited portion of the identified prior art references. A person of ordinary skill in the art would generally read a prior art reference as a whole and in the context of other publications, literature, and general knowledge in the field. To understand and interpret any specific statement or disclosure in a

prior art reference, a person of ordinary skill in the art would rely upon other information including other documents, publications, testimony, and general marketing, scientific, or engineering knowledge. Defendants reserve the right to rely on any of these sources, including on the basis of modifications and combinations of certain cited references.

Citation to a particular figure in a reference encompasses the figure, its caption and/or description of the figure, and any text relating to or discussing the figure in the reference or any reference cited in the disclosure. Likewise, citation to a particular text that refers, relies on, or discusses a figure or other material includes the figure or other material as well.

Bentley may rely on admissions concerning the scope of the prior art relevant to the Asserted Claims found, *inter alia*, in: (i) the specification of the '828 patent and related patents; (ii) the prosecution history of the '828 patent and related patents and/or patent applications including foreign applications; (iii) any deposition testimony in this or other actions of the named inventors of the '828 patent regarding the Asserted Claims; and (iv) any evidence submitted by Plaintiff in connection with this or any other litigation or patent office proceeding concerning the Asserted Claims. Finally, nothing in these Preliminary Invalidation Contentions shall be treated as an admission that any accused product meets any limitation of the Asserted Claims.

II. IDENTIFICATION OF PRIOR ART

Bentley hereby identifies prior art that anticipates, renders obvious, or otherwise describes the state of the art.

PATENTS AND PATENT APPLICATIONS

Prod. No.	Patent Number	Country of Origin	Date of Issue/Publication	Inventor (first named)	Basis for Invalidation
10529	4,569,255	USA	2/11/1986	Russell Holmes	§ 103
10541	4,576,065	USA	3/18/1986	Donald Speranza	§ 103

Prod. No.	Patent Number	Country of Origin	Date of Issue/Publication	Inventor (first named)	Basis for Invalidity
10554	4,760,893	USA	8/2/1988	Alfred Sigl	§ 103
10562	5,067,778	USA	11/26/1991	David Testardi	§ 103
10592	5,278,761	USA	1/11/1994	Anthony Ander	§ 103
10606	5,303,794	USA	4/19/1994	Davorin Hrovat	§ 103
10616	5,373,447	USA	12/13/1994	Michael Howes	§ 103
10625	5,406,861	USA	4/18/1995	Jon Steeby	§ 103
10638	5,513,107	USA	4/30/1996	Joseph Gormley	§ 103
10646	5,701,247	USA	12/23/1997	Hiroki Sasaki	§ 103
10664	5,941,614	USA	8/24/1999	Michael Gallery	§ 103
10671	5,997,108	USA	12/7/1999	Heiko Claussen	§ 103
10679	6,044,318	USA	3/28/2000	Klaus Bourdon	§ 103
10688	6,182,002	USA	1/30/2001	Paul Bauerle	§ 103
10694	6,213,242	USA	4/10/2001	Ashok Rodrigues	§ 103
10700	6,260,859	USA	7/17/2001	Christopher Dixon	§ 103
10715	6,293,632	USA	9/25/2001	John Grote	§ 103
10735	2154763	GB	9/11/1985	Akio Hosaka	§ 103
10770	2273580	GB	6/22/1994	Joseph Gormley	§ 103
10795	2357159	GB	6/13/2001	Marin Ranson	§ 103
10805	EP0976629	DE	2/2/2000	Andreas Bastian	§ 103
10818	EP0983894	GB	3/8/2000	Paul Bever	§ 103
10831	WO 02/26519	DE	4/2/2002	Luk Lamellen	§ 103
10841	DE19834167	DE	2/3/2000	Andreas Bastian	§ 103

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