

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.

IPR2019-01539
Patent RE46,828 E

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

GROSSMAN, *Administrative Patent Judge*.

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

I. INTRODUCTION

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 7 (“Prelim. Resp.”).

We have jurisdiction under 35 U.S.C. § 314. Under § 314, an *inter partes* review may not be instituted “unless . . . 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). The Board determines whether to institute a trial on behalf of the Director. 37 C.F.R. § 42.4(a).

For the reasons set forth below, upon considering the arguments and evidence of record, we determine that it is appropriate to exercise our discretion under § 314(a) to deny the Petition based on the advanced status of related District Court litigation.

A. *Related Proceedings*

Patent Owner sued Petitioner for infringement of the ’828 patent. Pet. 66–67; Paper 5, 1 (citing *Jaguar Land Rover Limited v. Bentley Motors Limited and Bentley Motors, Inc.*, Civ. No. 2:18-cv-320 (E.D. Va.) (“the Virginia District Court litigation”)).

Petitioner identifies as a related matter a continuation patent application filed by Patent Owner, U.S. Application S/N 15/949,385 (currently stayed). Pet. 67.

Petitioner also identifies IPR2019-01502, in which Petitioner challenges the same claims of the '828 patent as are challenged in the proceeding before us. Pet. 67.

B. Real Parties-in-Interest

Petitioner states “Bentley Motors Limited and Bentley Motors, Inc., along with Volkswagen AG, Volkswagen Group of America, Inc., Dr. Ing. h.c. F. Porsche AG, and Audi AG, are real-parties-in-interest.” Pet. 66.

II. BACKGROUND

A. The '828 Patent

The '828 patent discloses and claims a vehicle control system. *See, e.g.*, Ex. 1001, Abstract. More specifically, the disclosed invention provides for the “coordinated control of a number of subsystems of a vehicle.” *Id.* at 1:15–16. The vehicle “subsystems” include automatic transmissions, air suspensions, power steering, and all-wheel drive. *Id.* at 1:18–35.

As the number of controllable systems increases, the driver faces an increasing number of choices as to which configuration modes to select for each of the systems. *Id.* at 1:36–39. To simplify this process, known vehicle control systems use a central vehicle controller to control all the subsystems in a coordinated way. *Id.* at 1:41–46 (citing “GB2273580” as an example of a central coordinating controller). The '828 patent states, however, that these known systems do not provide the driver with the ability to provide direct input of the “surface terrain” to “better select the appropriate subsystem configuration modes.” *Id.* at 1:51–55. According to the '828 patent, the disclosed invention addresses the need for a vehicle control system that provides improved control for different off-road surfaces and terrains. *Id.* at 1:65–2:2.

Figure 4 from the '828 patent (reproduced below) is a “diagrammatic representation” of a vehicle mode controller controlling the powertrain, steering, braking, and suspension subsystems shown in Figures 1–3.

Ex. 1001, 5:29–30.

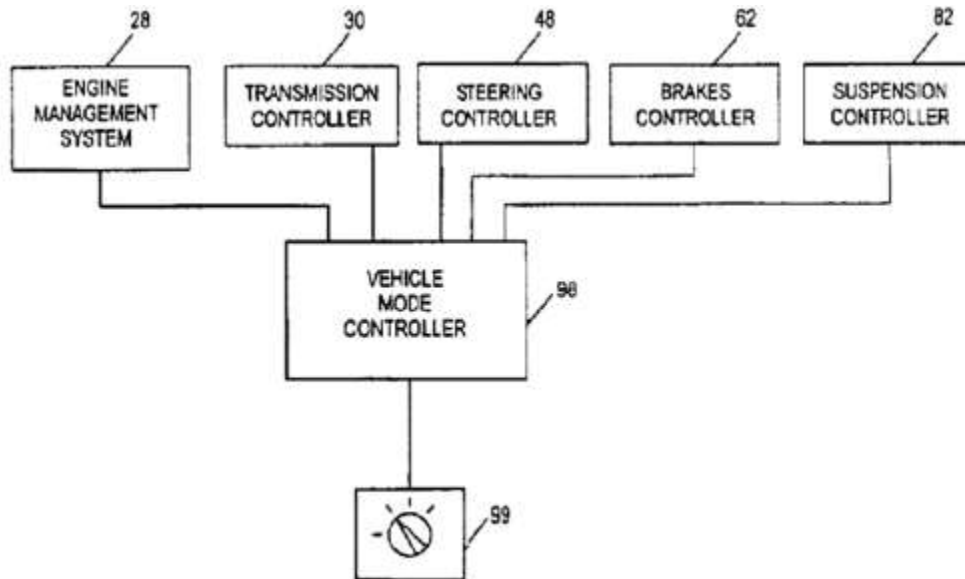


Figure 4 of the '828 patent is a diagrammatic representation of various controllers and subsystems. *Id.* at Fig. 4.

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 describes that the driver rotates rotary knob 99 to select one of a plurality of driving modes or surfaces. *Id.* at 9:59–62. The driving modes or surfaces selectable by the driver can include Grass, Sand, Rock Crawl and Mud. *Id.* at 9:59–10:5, 13:19–23, 16:57–59, Fig. 13. Once the driver selects a mode, the vehicle controller “controls the configuration

modes of operation of each of the subsystem controllers.” *Id.* at 9:43–58, 2:3–9.

B. Representative Claim

Among the challenged claims, claims 21, 30, 37, 41, 43, 45, and 46 are independent claims. All the independent claims are directed to a “vehicle control system.” *See, e.g.*, Ex. 1001, 20:13–29 (claim 21). The independent claims are similar. Claim 21 is directed specifically to an “off-road . . . sand mode.” *Id.* at 20:27–28. Claim 30 is directed specifically to details of the “driver input device.” *Id.* at 21:46–49. Other independent claims are directed to specific subsystems, such as the powertrain (claim 37), suspension (claim 41), brake (claim 43), transmission (claim 45), and speed control subsystems. Claim 21, reproduced below, is representative.

21. A vehicle control system having a driver input device for selecting a driving surface, the 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, and further wherein the plurality of driving modes includes at least two off-road modes in which the subsystem configurations are controlled in a manner suitable for driving on respective off-road driving surfaces, and an on-road mode in which the subsystem configurations are controlled in a manner suitable for driving on-road, and still further wherein one of the off-road modes is a sand mode in which the vehicle subsystems are controlled in a manner suitable for driving on sand.

Ex. 1001, 20:13–29.

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