

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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BAYERISCHE MOTOREN WERKE AKTIENGESELLSCHAFT and  
BMW OF NORTH AMERICA, LLC,  
Petitioners,

v.

PAICE LLC and THE ABELL FOUNDATION, INC.,  
Patent Owners.

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Case IPR2020-01386  
Patent No. 7,237,634

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**PATENT OWNER'S NOTICE OF APPEAL**

Pursuant to 35 U.S.C. §§ 142 and 319, and 37 C.F.R. § 90.2(a), Patent owners, Paice LLC and The Abell Foundation, Inc., hereby appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision in Case No. IPR2020-01386 entered on January 31, 2022 (Paper 37) (“Final Written Decision”) by the Patent Trial and Appeal Board (“the Board”), and from all other underlying orders, decisions, rulings and opinions that are adverse to Patent Owners including, without limitation, those within the Decision on Institution of *Inter Partes* Review entered February 5, 2021, 2021 (Paper 13).

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Patent Owners indicate that the issues on appeal include, but are not limited to:

- (1) the Board’s decision that challenged claims 33–44, 46, 49, 50, 52–55, 68, 105, 188, 189, 199–206, 208, and 211–214 were unpatentable under 35 U.S.C. §103(a) as being obvious in view of the cited prior art;
- (2) the Board’s interpretation of the limitation “monitoring patterns of vehicle operation over time and varies said setpoint SP accordingly” found in claim 33.
- (3) the Board’s reliance on conclusory and insufficient expert testimony;
- (4) the Board’s interpretation of the prior art;
- (5) the Board’s legal errors in undertaking the aforementioned obviousness analyses;

- (6) the Board's findings that conflict with the evidence of record or are that are otherwise not supported by substantial evidence;
- (7) the Board's failure to consider the evidence of record fully and properly;
- and
- (8) any findings or determinations supporting or related to the aforementioned issues as well as other issues decided adversely to Patent Owner in any order, decisions, rulings, or opinions.

Simultaneous with this submission, a copy of the Notice of Appeal is being filed electronically with the Patent Trial and Appeal Board. In addition, a copy of this Notice of Appeal, along with the required docketing fees, are being electronically filed with the Clerk's Office for the United States Court of Appeals for the Federal Circuit.

Respectfully submitted,

Dated: March 25, 2022

/Brian J. Livedalen/  
Brian J. Livedalen, Reg. No. 67,450  
Fish & Richardson, P.C.

Attorney for Patent Owner

**CERTIFICATE OF SERVICE**

Pursuant to 37 CFR §§ 42.6(e)(4) and 42.205(b), the undersigned certifies that on March 25, 2022, a complete and entire copy of this Patent Owner's Notice of Appeal was provided via email to Petitioner by serving the correspondence address of record as follows:

Jeffrey D. Sanok  
Vincent J. Galluzzo  
Crowell & Moring LLP  
Intellectual Property Group  
1001 Pennsylvania Avenue, N.W.  
Washington, DC 20004-2595

Scott L. Bittman  
Jacob Z. Zambrzycki  
Crowell & Moring LLP  
Intellectual Property Group  
590 Madison Avenue, 20th Floor  
New York, NY 10022-2544

E-mail:  
[jsanok@crowell.com](mailto:jsanok@crowell.com)  
[vgalluzzo@crowell.com](mailto:vgalluzzo@crowell.com)  
[sbittman@crowell.com](mailto:sbittman@crowell.com)  
[jzambrzycki@crowell.com](mailto:jzambrzycki@crowell.com)

I hereby certify that, in addition to being filed electronically through the Board's E2E System, the original version of the foregoing Notice of Appeal, was filed by hand on March 25, 2022, with the Director of the United States Patent and Trademark Office, at the following address:

Director of the United States Patent and Trademark Office  
c/o Office of the General Counsel  
Madison Building East, 1 OB20  
600 Dulany Street  
Alexandria, VA 22314-5793

I hereby certify that on March 25, 2022, a true and correct copy of the foregoing Notice of Appeal, along with a copy of the Final Written Decision, was filed electronically with the Clerk's Office of the United States Court of Appeals for the Federal Circuit, at the following address:

United States Court of Appeals for the Federal Circuit  
717 Madison Place, N.W., Suite 401  
Washington, DC 20005

/Brian J. Livedalen/  
Brian J. Livedalen, Reg. No. 67,450  
Fish & Richardson P.C.  
60 South Sixth Street, Suite 3200  
Minneapolis, MN 55402  
(202) 638-6557