

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KEY SAFETY SYSTEMS, INC.,
Petitioner,

v.

AMERICAN VEHICULAR SCIENCES, LLC,
Patent Owner.

Case IPR2016-01872
Patent 9,043,093 B2

Before TREVOR M. JEFFERSON, JENNIFER MEYER CHAGNON, and
SCOTT C. MOORE, *Administrative Patent Judges*.

CHAGNON, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

Key Safety Systems, Inc. (“Petitioner”) filed a Petition for *inter partes* review of claims 1–44 (“the challenged claims”) of U.S. Patent No. 9,043,093 B2 (Ex. 1001, “the ’093 patent”). Paper 2 (“Pet.”). Petitioner relies on the Declaration of Mr. Craig White (Ex. 1002) to support its positions. American Vehicular Sciences, LLC (“Patent Owner”) filed a Preliminary Response (Paper 6, “Prelim. Resp.”), along with a Declaration of Michael Nranian P.E. (Ex. 2005) in support of its positions.

We have authority to determine whether to institute *inter partes* review. *See* 35 U.S.C. § 314; 37 C.F.R. § 42.4(a). The standard for instituting an *inter partes* review is set forth in 35 U.S.C. § 314(a), which provides that 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.”

Upon consideration of the Petition and the Preliminary Response, and for the reasons explained below, we determine that Petitioner has not demonstrated a reasonable likelihood that it would prevail with respect to any of the challenged claims of the ’093 patent. Accordingly, we do not institute *inter partes* review.

A. Related Proceedings

The parties indicate that the ’093 patent is the subject of the following ongoing district court proceedings: *Am. Vehicular Scis. LLC v. Hyundai Motor Co.*, No. 5:16-cv-11529-JEL-APP (E.D. Mich.); *Am. Vehicular Scis. LLC v. Nissan Motor Co.*, No. 5:16-cv-11530-JEL-APP (E.D. Mich.); *Am. Vehicular Scis., LLC v. Toyota Motor Corp.*, No. 5:16-cv-11531-JEL-APP (E.D. Mich.); and *Am. Vehicular Scis., LLC v. Am. Honda Motor Co.*,

IPR2016-01872
Patent 9,043,093 B2

No. 5:16-cv-11532-JEL-APP (E.D. Mich.). Pet. vi; Paper 4, 2. The '093 patent also has been challenged in IPR2016-00364, IPR2016-01790, and IPR2016-01794. *See* Pet. vi; Paper 4, 2.

B. The '093 Patent

The '093 patent is titled “Single Side Curtain Airbag for Vehicles,” and was filed as U.S. application No. 11/930,330 on October 31, 2007. Ex. 1001, at [21], [22], [54]. The '093 patent claims priority, via a chain of continuation-in-part and divisional applications, to U.S. application No. 08/571,247, filed on December 12, 1995. *Id.* at [60].

The '093 patent relates to an airbag system for a vehicle, in which “the airbag for the front and rear seats are combined, i.e., the airbag deploys along substantially the entire side of the vehicle alongside both the front seat and the rear seat.” *Id.* at 65:29–32. According to the '093 patent, this arrangement “results in significantly greater protection in side impacts when the windows are broken.” *Id.* at 65:32–34. Further, the airbag system of the '093 patent utilizes a single gas-providing system with only one inflator to inflate the airbag. *Id.* at 187:4–6. The airbag also includes a plurality of compartments in flow communication with each other. *See, e.g., id.* at 169:27–33. As described in the '093 patent, the compartments allow the airbag to be formed of the desired shape, while minimizing stress concentrations, as well as the weight of the airbag. *Id.* at 81:14–19.

C. Illustrative Claim

Of the challenged claims, claims 1, 22, 26, 29, 36–39, and 41–43 are independent. Claims 2–21 and 33–35 depend, directly or indirectly, from claim 1; claims 23–25 depend from claim 22; claims 27 and 28 depend from claim 26; claims 30–32 depend from claim 29; claim 40 depends from

claim 39; and claim 44 depends from claim 43. Claim 1 of the '093 patent, reproduced below, is illustrative of the challenged claims.

1. An airbag system of a vehicle, the airbag system comprising:

a single airbag extending across at least two seating positions of a passenger compartment of a vehicle, the single airbag arranged to deploy into the passenger compartment along a lateral side of the vehicle and adjacent each of the at least two seating positions;

a cover interposed between the single airbag and the passenger compartment to cover the single airbag prior to deployment;

a single gas-providing system that has only one inflator that provides gas to inflate the single airbag and which is arranged apart from the single airbag; and

a conduit leading from the single gas-providing system to provide gas to inflate the single airbag, the conduit being arranged to deliver the gas from the single gas-providing system into the single airbag;

the at least two seating positions comprising a first seating position in a first seat row of seats of the vehicle and a second seating position in a second seat row of seats of the vehicle longitudinally displaced from the first seat row of seats, along the lateral side of the vehicle;

wherein the single airbag has a plurality of compartments for receiving the gas, and wherein the plurality of compartments are in flow communication with each other.

Ex. 1001, 186:61–187:18.

D. The Applied References and Evidence

Petitioner relies on the following references in the asserted grounds.

Pet. 1–3.

Reference	Date	Exhibit No.
U.S. Patent No. 5,439,247 (“Kolb”)	Aug. 8, 1995	Ex. 1010
U.S. Patent No. 5,588,672 (“Karlow”)	Dec. 31, 1996 ¹	Ex. 1011
JP Pub. No. 51-45366 (“Kobori”)	Dec. 3, 1976	Ex. 1013 ²
U.S. Patent No. 4,966,388 (“Warner”)	Oct. 30, 1990	Ex. 1026
U.S. Patent No. 4,963,412 (“Kokeguchi”)	Oct. 16, 1990	Ex. 1027
U.S. Patent No. 3,944,769 (“Wagner”)	Mar. 16, 1976	Ex. 1028
U.S. Patent No. 5,290,060 (“Smith”)	Mar. 1, 1994	Ex. 1029
U.S. Patent No. 5,618,057 (“Johnson”)	Apr. 8, 1997 ³	Ex. 1030
U.S. Patent No. 5,400,487 (“Gioutsos”)	Mar. 28, 1995	Ex. 1031
U.S. Patent No. 5,423,571 (“Hawthorn”)	June 13, 1995	Ex. 1032
U.S. Patent No. 5,269,561 (“Davis”)	Dec. 14, 1993	Ex. 1033
U.S. Patent No. 4,021,058 (“Suzuki”)	May 3, 1977	Ex. 1034

¹ Petitioner asserts that Karlow is prior art under 35 U.S.C. § 102(c). Pet. 3. Karlow was filed on October 20, 1995 (Ex. 1011, at [22]), which is before December 12, 1995, the earliest claimed priority date for the claims of the '093 patent (*see* Ex. 1001, at [60], 1:7–21).

² Citations throughout are to the certified translation of Kobori (Ex. 1014).

³ Petitioner asserts that Johnson is prior art under 35 U.S.C. § 102(e). Pet. 2. Johnson was filed on September 15, 1995 (Ex. 1030, at [22]), which is before December 12, 1995, the earliest claimed priority date for the claims of the '093 patent (*see* Ex. 1001, at [60], 1:7–21).

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.