

**PATENT**

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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**GARMIN INTERNATIONAL, INC. ET AL.**  
**Petitioner**

**v.**

**Patent of CUOZZO SPEED TECHNOLOGIES LLC**  
**Patent Owner**

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Case: IPR2012-00001

Patent No.: 6,778,074

Filed: March 18, 2002

Issued: August 17, 2004

Inventors: Giuseppe A. Cuzzo

Title: Speed Limit Indicator and Method for Displaying Speed and  
the Relevant Speed Limit

Docket No.: CUO0001-RE

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**PATENT OWNER'S MOTION FOR DISCOVERY AUTHORIZATION**

Patent Owner Cuozzo Speed Technologies LLC (“Cuozzo Speed”) respectfully requests authorization to conduct limited discovery regarding (1) the identity of Petitioner’s privies; and (2) objective evidence of non-obviousness to rebut Petitioner’s assertion that claim 10 of the ‘074 Patent is unpatentable under 35 U.S.C. § 103. Cuozzo Speed proposes conducting targeted written discovery and a deposition of Petitioner (“Garmin”), which discovery is in the interests-of-justice as demonstrated through application of the Board’s 5-factor test.

## **I. BACKGROUND**

On February 11 and 12, 2013, counsel for Cuozzo Speed discussed routine discovery requests with Petitioner’s counsel. Petitioner’s counsel finally refused all requests on February 12. A conference call with the Board was held on February 14 with the Board and counsel for the parties, after which the Board authorized this Motion in the Order Authorizing Motion for Additional Discovery (Paper 20) (“Order”) dated February 14, 2013.

On page 4 of the Order, the Board directed Cuozzo Speed to indicate its own claim construction and how its discovery request is necessary in light of that construction. Concerning Cuozzo Speed’s proposed discovery of objective evidence of nonobviousness, and in response to Garmin’s assertion that no nexus exists between the ’074 patent and the Garmin Personal Navigation Devices based upon the

Board's preliminary interpretation of "integrally attached," the Board directed Cuozzo Speed to "address the issue of nexus" in this motion. (Order at 4).

Cuozzo Speed does not present argument and evidence on claim construction in this motion, but notes that showing the requisite nexus for secondary considerations involves touching on issues that are closely related to the conclusion the Board drew from its preliminary construction—that devices with "a single electronic display that itself operates both as a speedometer and a colored display" are not covered by the '074 patent. (Paper 15 at 8). Cuozzo Speed must address the issue of nexus, and to the extent claim construction issues arise in that context, some discussion is necessary. In discussing these issues in this motion, Cuozzo Speed is not trying to circumvent the Board's Order.

For the reasons discussed in the Section II, Cuozzo Speed respectfully submits that the Board's interpretation of "integrally attached" is too narrow. Garmin failed to articulate any proposed construction for the term, relying instead upon an implied interpretation gleaned from Cuozzo Speed's district court infringement allegations. The absence of any clear position from Petitioner coupled with the incomplete record before the Board led to a preliminary interpretation that excludes disclosed and claimed electronic embodiments and unreasonably limits the scope of the claims.

## **II. NEXUS for SECONDARY CONSIDERATIONS**

A. Cuozzo Speed's Construction of "Integrally Attached"

Cuozzo Speed submits that, based on the plain and ordinary meaning of the terms, the intrinsic evidence, and the understanding of one skilled in the art at the time of the invention, the proper construction of "integrally attached" is "**joined or combined to work as a complete unit.**" The essential difference between this construction and the Board's construction ("discrete parts physically joined together as a unit without each part losing its own separate identity") is whether components integrally attached may share a common element. "Integrally attached" components sharing a common element is consistent with ordinary meaning, aligns with the intrinsic record, and finds extrinsic support.

B. Cuozzo Speed's Construction of "Integrally Attached" Includes Devices Sharing a Common LCD Display

Cuozzo Speed's construction of "integrally attached" vests significance in both "integrally" and "attached." The plain meaning of attached is "joined" or "connected." In structural terms, "integrally" is a variation of "integral" and means: essential to completeness; constituent; formed as a unit with another part. Merriam-Webster's Collegiate Dictionary 606 (10th ed. 2002) (Exhibit 2001).<sup>1</sup> In functional terms, the speedometer and colored display of the '074 patent are "integrally attached" to "provide[] an integrated display allowing the driver to immediately

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<sup>1</sup> See also, The American Heritage Dictionary 667(2d. College ed. 1991)("essential or necessary for completeness; constituent . . . a complete unit"); Webster's II New College Dictionary 575 (1995) (Exhibit 2001).

ascertain both his speed and its relation to the prevailing speed limit.” Cuozzo Speed’s construction provides this meaning by clarifying the resulting structure must “work as a complete unit.”

The ‘074 patent uses “integrally attached” to describe the relationship between the colored display and speedometer. In one embodiment, the colored display is a component of the speedometer. (5:8-12) (“Speedometer 12 has a backplate 14 . . . a colored display 18 made of a red plastic filter”).

Functionally, the “integrally attached” relationship between the speedometer and colored display achieves stated objectives (e.g., providing to the driver, via a single glance, the current speed and how it relates to the legal speed limit (4:7-14) and low cost of manufacture (3:39-51)). Reducing the number of parts by sharing common elements furthers these objectives. (Exhibit 2002, Declaration of James H. Morris Pursuant to 37 C.F.R. § 1.132 (hereinafter “Morris Decl.”), at ¶ 29).

The patent describes and claims both mechanical and electronic embodiments. In the mechanical embodiment described in Figures 3, and 4, the colored display 18 is a colored filter that shares and axle 30 with the speedometer. In the electronic embodiment contemplated by confirmed claims 12 and 18, either the speedometer or colored display can include an LCD. (Exhibit 2002, Morris Decl., at ¶ 29). One skilled in the art would understand that an LCD would not be rotatably mounted on a speedometer axle. (Exhibit 2002, Morris Decl., at ¶ 27). In considering an electronic

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